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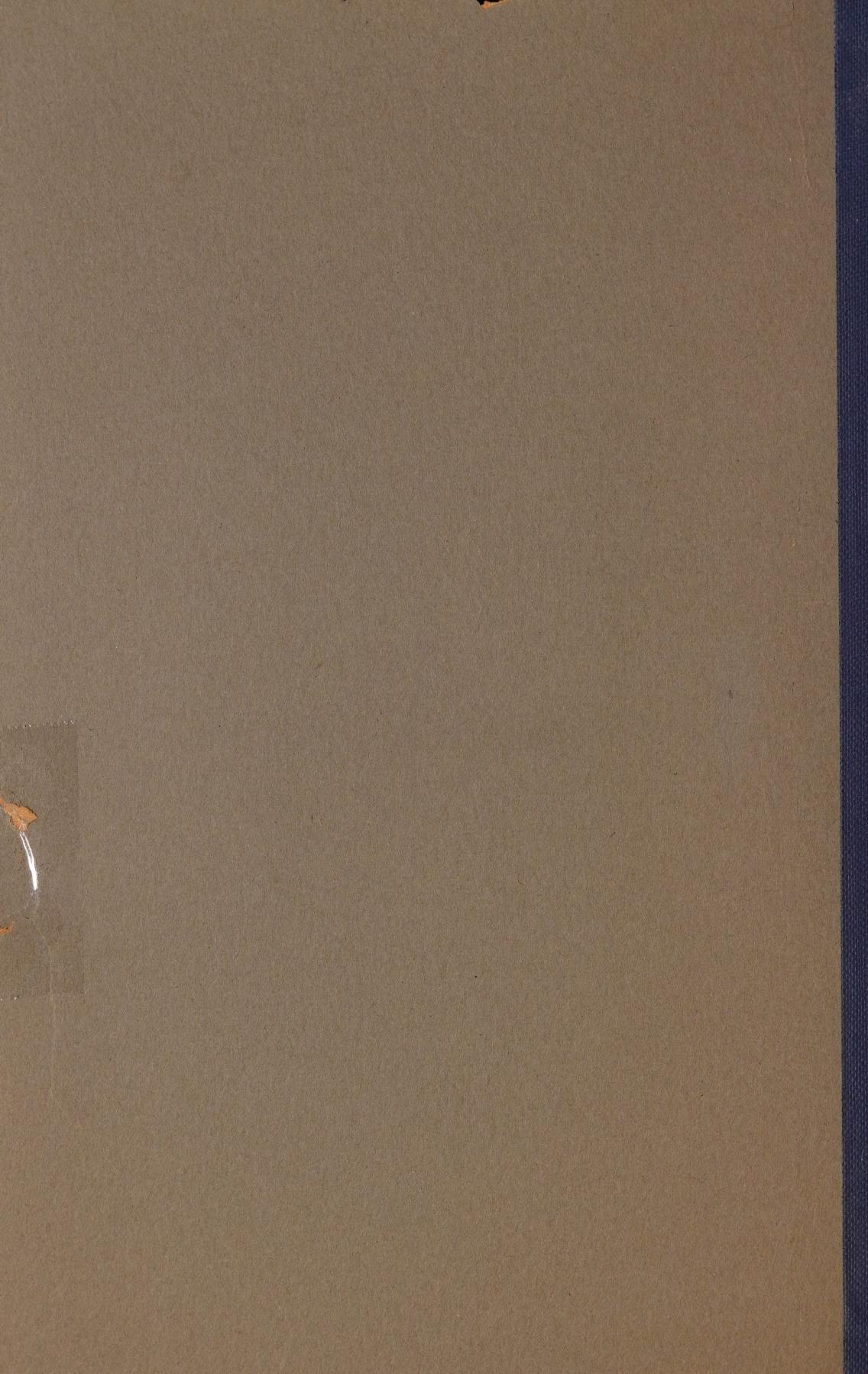
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Regulations and despatch-  
es respecting extradition  
proceedings

1917.



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Canada. Secretary of State, Dept. of the  
"Extradition  
Government  
Publications  
THE CROWN OF CANADA  
THE COUNTY OF YORK  
CITY OF TORONTO  
C.R.  
C.P.R.  
C.A.I.  
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-17R

Regulations and Despatches  
Respecting  
Extradition Proceedings.

Bound with 3 others.



OTTAWA  
J. DE LABROQUERIE TACHÉ  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
1917



Canada. Secretary of State Dept. of the  
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# Regulations and Despatches Respecting Extradition Proceedings.

Bound with:-

U. S. State, Dept. of

- 1) Memorandum ...
- 2) Provisional detention ...
- 3) Memorandum ...

OTTAWA

J. DE LABROQUERIE TACHÉ  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1917

1909—1



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## No. 1.

(Circular.)

DOWNING STREET, 23rd July, 1896.

SIR,—Cases have recently arisen in which applications for the arrest of Fugitive Offenders have been made by Colonial Police Officers direct to the Police of Foreign Countries and to Her Majesty's Consuls.

It would appear from these communications that the proper course of procedure to be followed in Extradition cases is not generally known in the Colonies; and I would therefore invite the attention of your Government to the Circular\* issued by the Director of Criminal Investigations to the Chief Officers of Police of the United Kingdom, on 1st January, 1880, which was enclosed in Lord Kimberley's Circular despatch of the 18th June, 1880, and also to the Home Office Memorandum\*\* as to Procedure in Extradition cases, which was transmitted to you in Lord Knutsford's Circular despatch of the 30th April, 1890. In these papers you will find that it was clearly laid down that the application to a foreign Country for the arrest of a Fugitive Offender must be made through the Foreign Office and the proper diplomatic channels; and that the limits are defined within which direct communications from Police Officers to Foreign Police Authorities are permissible.

I need scarcely impress upon your Government the necessity for demands for Extradition being sent through the regular channel, and I request that instructions may be given that in future direct communications from Colonial Police Officers to Foreign Police Authorities, which can generally be made most conveniently through Her Majesty's Diplomatic and Consular Officers, should be confined to such as are of the nature indicated in paragraph 15 of the Police Circular of 1880; and in paragraph 2 of Article III of the Home Office Memorandum above referred to.

These paragraphs are as follows:—

*Police Circular of 1880, paragraph 15.*

“It will be desirable in most cases for the Chief Officer of Police demanding the extradition to despatch a letter or telegram to the competent authority, briefly noting the particulars of the request, and adding that the official demand for

\* See page 26.    \*\* See page 30 et seq.

extradition is about to be made, and requesting such provisional measures as may be possible or expedient."

*Home Office Memorandum of 1890, article III, paragraph 2.*

"The Chief Officers of English police forces may communicate direct with the police of foreign countries for the purpose of giving or obtaining *information*, but under no circumstances should direct application be made to foreign police for the *arrest* of a fugitive. Serious difficulties have arisen in cases where this direction has been overlooked."

I have the honour to be, sir,

Your most obedient, humble servant,

J. CHAMBERLAIN.

The Officer Administering  
the Government of Canada.

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## No. 2.

*Extract from a Report of the Committee of the Honourable the Privy Council, approved by His Excellency on the 7th November, 1896.*

The Committee of the Privy Council have had under consideration a Circular Despatch, hereto attached, dated 23rd July, 1896, from the Right Honourable Mr. Chamberlain, calling attention to certain Memoranda on the subject of the procedure to be observed in Extradition cases previously transmitted by the Colonial Office, and pointing out that inconveniences have arisen from requests for the arrest of fugitives having been made direct by Colonial Police Officers to Foreign Police Authorities.

The Minister of Justice, to whom the question was referred, recommends that communication be had with the several Provincial Governments, calling attention to the necessity for demands for extradition being sent through the proper channel, as requested by the Secretary of State for the Colonies; and also to the limits within which, according to the Memoranda referred to, direct communications from Colonial Police Officers to Foreign Police Authorities are permissible.

The Minister of Justice desires to point out that the proper channel, through requisitions for extradition are to be made, is always, in the first instance, the Dominion Government, whether the requisition be desired to be made on the United States, or on an European or other Foreign Government, and that in the case of the United States, a special arrangement exists by which His Excellency the Governor General moves the British Ambassador at Washington, instead of making the requisition through the Foreign Office, as is done in the case of other countries, but, in all cases, that the requisition should be first made to the Dominion Government.

The Committee advise that a certified copy of this Minute, if approved, together with a copy of the Despatch in question, be forwarded to the Lieutenant Governors of the several Provinces and of the North West Territories of Canada.

JOHN J. McGEE,  
*Clerk of the Privy Council.*

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No. 3.

*Acting Consul General, New York, to Lord Grey.*

BRITISH CONSULATE GENERAL,

NEW YORK, May 11, 1907.

MY LORD,—I have the honour to report that in accordance with instruction received yesterday from His Majesty's Ambassador at Washington, I made a complaint before the United States Commissioner in this City and obtained from him a warrant for the provisional arrest of CHARLES DUFFY, on the charge of larceny committed in Montreal on or about the 10th of April last.

Duffy, who had been arrested on a technical charge by the Police here, at the request of the Chief of Police of Montreal, was discharged yesterday by the City Magistrate, rearrested and arraigned before the Commissioner, waived examination and was duly committed for extradition on charges of larceny and theft.

The papers in the case will be forwarded to Washington on the 12th and I understand that an application for his surrender has already been made through His Majesty's Embassy.

On receipt of the Extradition Warrant, I will give the necessary instructions for the prisoner to be handed over to the custody of the officer sent to accompany the prisoner to Montreal.

A statement of the expenses incurred will be forwarded in a subsequent despatch.

In connection with this matter I would bring to Your Excellency's notice the unnecessary delay that is occasioned in these matters by the action of the provincial authorities of the Dominion in failing to observe the terms of Mr. Secretary Chamberlain's Circular of July 23rd, 1896, wherein it is pointed out that His Majesty's Consular Officers are unable to take any steps to secure the apprehension of fugitive offenders without direct authority from the Officer administering the Government of a Colony or His Majesty's diplomatic representative.

In the case in question the Chief of Police in Montreal appears to have requested the Police authorities in this city to arrest the fugitive, though such action is contrary to the terms of the above mentioned circular. The fugitive was duly arrested some time last week, and the police officer appeared at this office on the 6th instant, but I was unable to take any steps in the matter, as I had no authority to act, until yesterday when I received a message by telephone from the Embassy at Washington.

If on the other hand the authorities at Montreal had obtained a telegraphic message from Your Excellency to this Consulate General requesting that action might be taken, I should have been able to obtain the provisional warrant on the 6th instant and have saved considerable delay and unnecessary expense.

I venture to lay these facts before your Excellency as they arise practically every time that the extradition of a fugitive offender from this City is desired by the Dominion Government.

For purposes of easy reference I beg to enclose a copy of the circular above referred to.

I have, etc.,

C. CLIVE BAYLEY,  
*Acting Consul General.*

## No. 4.

ONTARIO, GOVERNMENT HOUSE.

TORONTO, July 16, 1908.

SIR,—I have the honour to inform you that the fact has been brought to my attention that in the State of New York, owing to a decision of one of the Courts, extradition proceedings asked for by England or any of her Colonies have to be commenced by a request from the British Consul, who it is understood claims that he should get instructions from Downing Street.

This practice is quite contrary to that pursued hitherto, and to prevent difficulty I beg leave to request that His Excellency the Governor General may be pleased to communicate with the British Ambassador at Washington, and ask him to instruct the Consul-General at New York to give the necessary direction as a matter of course in the case of any officer acting under the instructions of the Attorney-General of this Province.

I have the honour to be, sir,

Your obedient servant,

CHARLES MOSS,

*Administrator of the Government.*

The Honourable

The Secretary of State,

Ottawa, Ont.

## No. 5.

OTTAWA, 20th July, 1908.

SIR,—A despatch from the Administrator of the Government of Ontario having been received in the Department of the Secretary of State in reference to a decision of a court in the State of New York, to the effect that extradition proceedings have to be commenced by a request from the British Consul, who it is understood contends that he should get instructions from Downing Street, I have the honour to request that His

Excellency the Governor General may be humbly moved to communicate with His Majesty's Ambassador at Washington, asking him to instruct the Consul General at New York to give the necessary directions as a matter of course, in the case of any officer acting under the instructions of an Attorney General of a Province.

I have the honour to be,

Sir,

Your obedient servant,

(Sgd.) P. PELLETIER,

Acting Under-Secretary of State.

To the Governor General's Secretary.

### No. 6.

OTTAWA, July 22, 1908.

SIR,—With reference to your letter of the 20th instant, requesting that His Majesty's Ambassador may be asked to instruct His Majesty's Consul General at New York to give the necessary directions for the commencement of extradition proceedings on the application of any officer acting under the instructions of an Attorney General of any Province, I am desired by the Governor General to direct your attention to paragraph 6 of the letter from the Consul General, dated the 11th May, 1907, copy of which was referred to the Secretary of State on the 15th of that month.

As the Consul General seems to conceive that the procedure indicated in Mr. Chamberlain's Circular despatch of the 23rd July, 1896, precludes his taking action, except on the direct application of the Governor General or of His Majesty's Ambassador, perhaps it would be well that the decision of the Secretary of State for Foreign Affairs as to the desirability of a modification of his instructions in the desired direction should be obtained.

I have the honour to be, sir,

Your obedient servant,

C. J. JONES,

*For the Governor General's Secretary.*

The Under-Secretary of State,

Ottawa.

## No. 7.

PS.

No. 1543.

OTTAWA, July 24, 1908.

SIR,—With reference to your letter of the 22nd instant in answer to a request made by this Department on the 20th instant, requesting that His Majesty's Ambassador be asked to instruct the Consul General at New York to give the necessary directions as a matter of course in the case of any officer applying under the instructions of an Attorney General of a Province for the extradition of a fugitive, I have the honour to state that the Acting Deputy of the Minister of Justice is of opinion that the decision of the Secretary of State for Foreign Affairs should be obtained as to the desirability of a modification of instructions in the desired direction.

I am, therefore, to request that His Excellency the Governor General be humbly moved to have the necessary steps taken to obtain the decision of the Secretary of State for Foreign Affairs in the matter.

I have the honour to be, sir,  
Your obedient servant,

P. PELLETIER,  
*Acting Under-Secretary of State.*

To

The Governor General's Secretary,  
Ottawa.

## No. 8.

P. C. 2376 M.

CANADA

No. 540.

*From Lord Crewe to Lord Grey.*

DOWNING STREET, September 5, 1908.

MY LORD,—With reference to my despatch, No. 525 of the 28th of August, I have the honour to request Your Excellency to inform Your Ministers that the Secretary of State for Foreign Affairs has authorized His Majesty's Consul General at New

York to take preliminary steps in extradition proceedings upon the application of any officer instructed by the Attorney General of a Canadian province.

I have, etc.,

CREWE.

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No. 9.

CANADA.

No. 962.

DOWNING STREET, December 31, 1910.

MY LORD,—With reference to my predecessor's despatch No. 692 of the 17th November, 1908, I have the honour to transmit to Your Excellency to be laid before your Ministers the accompanying copy of a despatch from His Majesty's Consul General at New York in which he calls attention to certain irregularities in connection with extradition proceedings between Canada and the United States.

2. I shall be glad to learn whether your Ministers are prepared to adopt the procedure suggested in the Consul General's despatch.

I have the honour to be, My Lord,  
Your Lordship's most obedient humble  
servant,

L. HARCOURT.

Governor General

His Excellency

The Right Honourable

Earl Grey, G.C.M.G., G.C.V.O.,  
etc., etc., etc.

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TREATY

No. 29.

December 7, 1910.

No. 10.

SIR,—With reference to Sir Francis Campbell's despatch No. 13 of this Series, dated September 1, 1908, in which I was

authorized to take preliminary steps in Extradition Proceedings upon the application of any Officer instructed by a Provincial Attorney General of the Dominion of Canada, I have the honour to report that of late there have been several cases in which the extradition of criminals wanted in Canada have been instituted in the first case without my knowledge.

To-day I was informed over the telephone by Mr. Fox that he had been called to the Office of Commissioner Shields in connection with the case of a man named Edward Elmer McIntosh who had been arrested in New York at the request of the Detective Department of Ontario, on a charge of stealing notes issued by the Traders Bank of Canada from the Dominion Express Company.

It would appear that the above detective department entered into direct communication with Messrs. Pinkertons through whom the arrest was made, neither Mr. Fox nor myself knowing anything whatever of the circumstances, neither would it appear that the Canadian Government had sent anybody here to identify McIntosh, whilst McIntosh on his part denied his identity with the person wanted by the Government of Canada.

Mr. Shields, therefore, was about to discharge the prisoner from custody, but before doing so he consulted Mr. Fox who applied for an adjournment, and at the same time I cabled to Earl Grey, the Governor General of Canada, stating that McIntosh had been arrested and that complaint must be made immediately if the prisoner were to be held.

In making this representation I would beg to state that there is every desire upon my part to assist the Government of Canada in any steps tending to the extradition of criminals wherever I can properly do so.

In the present case, however, as in some others, I have no knowledge whatever officially of the charge brought against McIntosh or of his being wanted.

I would suggest that in any future case a telegram might be sent to me by the Provincial Attorney General interested expressing the desire of the Dominion for the extradition of any criminal wanted.

If this were done I could see my way clear to follow the instructions laid down by Sir Francis Campbell, by your direction, in the despatch above referred to.

I have, etc.,

A. W. BENNETT,  
*Consul General.*

His Majesty's Principal Secretary of State  
for Foreign Affairs,  
Foreign Office, London.

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No. 11.

PS.  
113.11  
1543.08.

OTTAWA, January 17, 1911.

SIR,—I have the honour to refer to a despatch addressed to you on the 30th of September, 1908, in which your Government was informed that the Secretary of State for Foreign Affairs had authorized His Majesty's Consul General at New York to take preliminary steps in extradition proceedings upon the application of any officer instructed by the Attorney-General of a Canadian Province, and to inform you that His Majesty's Consul General at New York has recently pointed out to the Foreign Office that there have been several cases in which the extradition of criminals wanted in Canada has been instituted in the first instance without his knowledge.

The Consul General suggests that, in any future case, in order to enable him to comply with his instructions, a telegram might be sent to him by the Provincial Attorney-General interested, expressing the desire of the Dominion for the extradition of any fugitive wanted.

The Secretary of State will be glad to know, for the information of the Colonial Office, whether your Ministers are prepared to adopt the procedure suggested by the Consul General.

I have the honour to be, sir,

Your obedient servant,

THOMAS MULVEY.

*Under-Secretary of State.*

His Honour

The Lieutenant-Governor of British Columbia,  
Victoria, B.C.

NOTE.—Similar letters were sent to the Lieutenant-Governors of the other Provinces.

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### No. 12.

CANADA.

No. 940.

DOWNING STREET, December 20, 1913.

SIR,—With reference to Your Royal Highness's despatch No. 642 of the 3rd November, I have the honour to transmit to you, to be laid before your Ministers, a copy of a further despatch with enclosure from His Majesty's Consul General at New York on the subject of the procedure to be observed in connection with the extradition from the United States of fugitives from justice in Canada.

I have the honour to be, sir,

Your Royal Highness's most obedient  
humble servant,

L. HARCOURT.

Governor General

His Royal Highness

The Duke of Connaught and Strathearn, K.G., K.T.,  
K.P., G.C.B., G.C.S.I., G.C.M.G., G.C.I.E.,  
G.C.V.O., etc., etc., etc.

## No. 13.

TREATY  
No. 37.

*Copy to Embassy.*

December 2, 1913.

SIR,—With reference to my despatch No. 34 of this series of the 11th July last in which I pointed out that the Authorities in the Dominion of Canada by constantly failing to take steps laid down in the arrangement made in July, 1908, between the Foreign Office and the Dominion of Canada as regards the course to be taken to secure extradition from the United States of fugitives from justice wanted in Canada caused considerable confusion, I now have the honour to enclose a copy of a letter which I have addressed upon this subject to the Deputy Attorney General of Ontario, concerning the extradition of a man named Irwin Shaw who had been arrested by the New York Police with a view to securing extradition and without previous communication with me.

This manner of proceeding is open to so very many objections that I would respectfully ask whether it would not be desirable to cause a circular to be sent through the proper authorities to the offices of Attorneys General in Canada, pointing out the course which should be taken in these cases.

I might add that only a few days since I received a letter from the Deputy Attorney General of British Columbia, asking what steps he should take to secure the extradition of a fugitive from Canadian justice. From this I gather that no such circular as the one I have suggested above has ever been issued by the Canadian authorities.

I have the honour to be with the greatest respect, etc.,

C. W. BENNETT,  
*Consul General.*

The Right Honourable

Sir Edward Grey, Bt., K.G.,

His Majesty's Principal Secretary of State for Foreign Affairs.

## No. 14

TREATY  
No. 4.

BRITISH EMBASSY.

WASHINGTON, January 3, 1916.

SIR,—I have the honour to transmit to Your Royal Highness herewith copy of a despatch which I have addressed to the Foreign Office, together with copy of a despatch from His Majesty's Consul General at Chicago, suggesting that in view of the proximity of the Chicago Consular district to the Canadian frontier, it might be advisable to authorize Provincial Governments in the Dominion to communicate direct with the Consulate General in cases in which it is desired to secure the arrest of fugitives from Canadian justice.

In view of the considerations set forth by Mr. Nugent, it appears to me that it would be well to adopt in the case of Chicago the system which has since 1908 been authorized in the case of New York, and I should be glad to be informed whether Your Royal Highness' Government concurs in this view.

I have, etc.,

(Sgd.) CECIL SPRING-RICE.

Field Marshal,

His Royal Highness,

The Duke of Connaught and Strathearn, K.G., etc., etc.

The Governor General.

## No. 15.

TREATY  
No. 3.

BRITISH EMBASSY.

WASHINGTON, January 3, 1916.

SIR,—I have the honour to transmit to you herewith copy of a despatch from His Majesty's Consul General at Chicago, with enclosures, suggesting that in view of the proximity of his Consular district to the Canadian frontier, the Provincial Governments of the Dominion should be authorized to communicate direct with the Consulate General at Chicago, in cases where it is desired to secure the arrest of fugitives from Canadian justice.

In the case of New York an arrangement was sanctioned in 1908, by which His Majesty's Consul General at that place was permitted to take preliminary steps in extradition proceedings upon the application of any officer instructed by the Attorney General of a Canadian Province, and in view of the considerations set forth by Mr. Nugent, it might be advisable to extend this arrangement at Chicago.

I am forwarding a copy of this despatch and of its enclosures to the Governor General of Canada.

I have the honour to be, etc.,

(Sgd.) CECIL SPRING-RICE.

The Right Honourable

Sir Edward Grey, Bart., K.G., M.P., etc., etc., etc.

### No. 16.

BRITISH CONSULATE GENERAL,

Chicago, December 29, 1915.

SIR,—I have the honor to transmit to your Excellency herewith a letter which I have received from my Attorney relative to the regulations of the British Government whereby Canadian authorities seeking the arrest of an individual in this district with a view to eventual extradition are required to send their application to Ottawa from where it is to be forwarded to Your Excellency for eventual transmission to this Office. My lawyer draws attention to the fact that this roundabout procedure is liable to cause delays of from twenty-four to forty-eight hours which are sometimes quite sufficient to render the arrest of the fugitive from justice impossible. He points out that in the recent case of the arrest of Thomas Kelly this would have been the case had not the Manitoba authorities telegraphed direct to this office and to the local police.

I venture to submit this matter to Your Excellency as it would seem altogether advisable in view of the proximity of my district to the Canadian frontier, that the special privilege of direct communication which has been granted to the Consulate

General in New York, be extended to this office so that Provincial Governments in Canada may communicate directly with me in cases where there would seem to be a danger of the fugitive from justice escaping altogether.

I have the honour to be,

Sir,

Your Excellency's most obedient humble  
servant,

(Sgd.) HORACE NUGENT.

His Excellency,

The Right Honourable

Sir Cecil Spring-Rice, G.C.V.O., K.C.M.G., etc., etc.,  
British Embassy,  
Washington, D.C.

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### No. 17.

BULKLEY, MORE & TALLMADGE.

CHICAGO, December 27, 1915.

Hon. HORACE D. NUGENT,  
British Consul General,  
307 Pullman Building,  
Chicago.

DEAR SIR,—Some days ago I spoke to you about the question raised by the Deputy Attorney General at Regina, that all requisitions for extradition warrants must come through the Department of Secretary of State of Canada, and after talking with you I wrote a letter to the Hon. Thomas Mulvey, Under-Secretary of State at Ottawa, and explained to him in a way the occasion for extradition in causing to be issued on telegraphic information direct from the Chief of Police, or other authenticated officer of the Canadian Government a provincial warrant.

You are aware that in many instances, if we were not very expeditious, a fugitive would escape and if we had to go through a circuitous route of waiting for the information, say to go from Regina to Ottawa, Ottawa to the Embassy at Washington and

from the Embassy at Washington to you, even by telegraph, a fugitive might escape or be released and that would have been true in the Kelly case. Our Supreme Court once decided that it was competent for any body to make a complaint on which a fugitive warrant could be obtained. They have intimated strongly that when a consular officer makes the fugitive warrant it is a stronger indication that the demanding government desires the return of the prisoner.

You also appreciate that in most all these cases the first complaint and warrant is usually based on telegraphic information and is sufficient to hold the prisoner until the proper papers arrive in reasonable time, and then it is proper practice to amend the complaint and warrant or even swear out a new warrant.

I really think that the Honourable Under-Secretary of Canada has to a certain extent misconceived the real object and purpose of the instructions contained in the enclosed documents. The real object and purpose is that the demanding government must make a requisition upon our government through proper official channels before the warrant for the Secretary of State will properly issue to surrender the prisoner.

Several times it has been questioned in court proceedings that there was no showing before the commissioner before whom extradition proceedings were had that the requisition from the demanding government was not presented, but it has been held by our courts that it is unnecessary to present the requisitions from the demanding government when the consular officer makes the affidavit or when the record in other respects is complete.

Therefore, I conclude that the real element in these instructions is, that before a prisoner is surrendered, the requisition by the demanding government must be with the Secretary of State, and such, in effect, is the holding of our Supreme Court. I really believe that the Honourable Under-Secretary of State has misconceived, to a certain extent, the instructions.

I would be glad, when you have examined these papers, if you would return them with such comments as you may desire.

Very truly yours,

(Sgd.) C. E. MORE.

## No. 18.

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA.

OTTAWA, December 21, 1915.

GENTLEMEN,—I have the honour to acknowledge the receipt of your letter of the 10th instant, and to inform you, in answer thereto, that the practice to be followed in extradition cases has been laid down by despatch from the Colonial Office. I enclose for your consideration a <sup>1</sup>despatch from the Colonial Office dated 23rd July, 1896, and a Minute of the Privy Council of Canada dated the 7th November, 1896, in which this practice is set out.

This practice is applicable throughout the United States with the exception of such cases as may come within the jurisdiction of His Majesty's Consul General at New York.

The history of this variation is disclosed in the following documents, copies of which are enclosed:—

1. A <sup>(a)</sup>letter from the Administrator of the Province of Ontario to the Secretary of State, dated 16th July, 1908;
2. A <sup>(b)</sup>letter from the Acting Under Secretary of State to the Governor General's Secretary, dated 20th July, 1908;
3. A <sup>(c)</sup>letter from the Acting Under-Secretary of State to the Governor General's Secretary, dated 24th July, 1908.

These latter letters brought about a correspondence which indicated that His Majesty's Ambassador at Washington deemed himself precluded by Mr. Chamberlain's despatch of July 23rd, 1896, from taking the requested proceeding and expressed a desire that the matter should be taken up directly with the Foreign Office, as appears from a <sup>(d)</sup>despatch dated the 28th August, 1908, from the Colonial Secretary to His Excellency the Governor General. The Colonial Office <sup>(e)</sup>despatch of the 5th September, 1908, is in substance the authority under which His Majesty's Consul General at New York acts in extradition matters.

<sup>1</sup> See pp. 3 and 4 of this pamphlet.

(a) See page 7.

(b) See page 7.

(c) See page 9.

(d) See page 20.

(e) See page 9.

I will be glad to go into any further details upon the subject which you may desire.

I have the honour to be,  
Gentlemen,  
Your obedient servant,

(Sgd.) THOMAS MULVEY,  
Under-Secretary of State.

Messrs. Bulkley, More & Tallmadge,  
Attorneys,  
Home Insurance Building,  
Chicago, Ill.

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**No. 19 (Enclosure to No. 18).**

*From Lord Crewe to Lord Grey.*

CANADA.  
No. 525.

DOWNING STREET,  
28th August, 1908.

My LORD,—I have the honour to acknowledge the receipt of your despatch No. 334 of the 27th July, on the subject of extradition from the United States to Canada.

In reply I have to request you to inform your Ministers that I am in communication with the Foreign Office on the matter, and will address a further despatch to you as soon as I have received a reply from that Department.

I have, etc.,

(Sgd.) CREWE.

## No. 20.

P.C. 2169.

*Certified copy of a Report of the Committee of the Privy Council approved by His Royal Highness the Governor General on the 29th September, 1916.*

The Committee of the Privy Council have had before them a Report, dated 9th September, 1916, from the Right Honourable the Secretary of State for External Affairs, to whom was referred a Despatch from His Majesty's Ambassador at Washington, dated 3rd January, 1916, suggesting that in view of the proximity of the Chicago Consular District to the Canadian Frontier, it might be advisable to authorize Provincial Governments in the Dominion to communicate direct with the Consulate General in cases in which it is desired to secure the arrest of fugitives from Canadian justice, and intimating that such an arrangement has been sanctioned for proceedings in the City of New York.

The Minister, with the concurrence of the Minister of Justice, represents that he concurs in the suggestion that there should be the same speedy means of proceedings in Chicago and San Francisco as in New York, and indeed he sees no reason why the procedure in the case of New York should not be sanctioned for any other place in the United States where it can be followed with advantage or convenience.

The Minister observes that it must be remembered that the local prosecuting authorities are responsible for the carriage of the judicial proceedings, and therefore no reason occurs to the Minister of Justice why they should not be permitted to invoke the assistance of His Majesty's Consuls for the purposes of instituting or prosecuting the proceedings in any case in which the consul is willing to assist. On the other hand of course all diplomatic proceedings for the requisition, or correspondence connected with surrender, must necessarily be conducted by the Government of Canada.

The Committee, on the recommendation of the Secretary of State for External Affairs, advise that a copy hereof be forwarded to His Majesty's Ambassador at Washington and to the Right Honourable the Secretary of State for the Colonies,

and that it be also communicated to each of the Lieutenant-Governors of the Dominion.

All of which is respectfully submitted for approval.

(Sgd.)      F. K. BENNETTS,  
Asst. Clerk of the Privy Council.

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### No. 21

No. 267.

BRITISH EMBASSY,  
WASHINGTON, November 22, 1916.

My LORD DUKE,—With reference to the despatch from His Royal Highness the Duke of Connaught No. 217 of the 6th ultimo, respecting the procedure to be followed in obtaining the arrest in this country of fugitives from Canadian justice, I have the honour to inform Your Excellency that I have now received a despatch from the Foreign Office approving the suggestion that His Majesty's Consular Officers at Chicago and San Francisco, should be authorized, in connection with the preliminary steps in cases of extradition from the United States to Canada, to proceed upon the application of any officer instructed by an Attorney-General of one of the Canadian Provinces.

His Majesty's Consuls General at Chicago and San Francisco have been instructed accordingly, and the procedure to be followed in cases of this nature arising in these two Consular Districts will thus be assimilated to that which has already been adopted for the Consular district of New York.

I have the honour to be,  
My Lord Duke,  
Your Excellency's most obedient,  
humble servant,

(Sgd.)      CECIL SPRING-RICE.

His Excellency,

The Duke of Devonshire, K.G., etc., etc., etc.,  
Governor General of Canada.

## No. 22.

To His Excellency the Governor General.

The undersigned, to whom was referred a despatch from the Secretary of State for the Colonies, dated 11th February, 1907, on the subject of the distribution in Canada of the Revised Telegraphic Code, for use in connection with proceedings under the *Extradition* and *Fugitive Offenders' Acts*, has the honour to report that he has noted Lord Elgin's suggestion that the most convenient course would seem to be that the head of the police in each of the Provinces of Canada should be furnished with a copy of the Code. The objection to this plan is that the police are municipal and not provincial bodies. Consequently there is no one head of police in any Province, the local police of the different cities and towns being entirely independent the one of the other.

Eleven copies of the Code in all have been received and distributed by arrangement with the several Provinces, in the following manner:—

Province of Ontario—The Attorney General, Toronto.

Province of Quebec—The Assistant Attorney General, Quebec.

Province of New Brunswick—The Attorney General, Fredericton.

Province of Nova Scotia—The Chief of Police, Halifax.

Province of Prince Edward Island—The Attorney General, Charlottetown.

Province of Manitoba—Edward J. Elliott, Chief Provincial Police, Winnipeg.

Province of British Columbia—The Attorney General, Victoria.

Province of Saskatchewan—The Attorney General or Deputy, Regina.

Province of Alberta—The Attorney General, Edmonton.

Telegraphic communications in connection with the extradition of fugitive offenders should be addressed to the above named persons in each Province.

The undersigned ventures to think that this arrangement will prove satisfactory, but if it is thought well that the Chiefs

of Police in each of the larger cities and towns in Canada should be provided with a copy of the Code, at least thirty additional copies will be required to provide for such distribution.

All of which is respectfully submitted.

(Sgd.)      R. W. SCOTT,  
Secretary of State.

OTTAWA, 5th March, 1907.

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No. 23.

CANADA  
No. 320.

DOWNING STREET,  
11th May, 1909.

MY LORD,—With reference to Your Excellency's despatch No. 168 of the 5th of April, I have the honour to request that you will inform your Ministers that the name of the Commissioner of the Dominion Police has been inserted in the copies of the code in use by the Home Office, and that the police authorities in England holding copies of the code have been requested to make the same addition.

2. I have to add that I have addressed Circular despatches to all Governors requesting that note may be taken of the addition of the Commissioner's name.

I have the honour to be,  
My Lord,  
Your Lordship's most obedient humble  
servant,

CREWE.

Governor General  
His Excellency,  
The Right Honourable  
Earl Grey, G.C.M.G., G.C.V.O., etc., etc.

## No. 24.

OTTAWA, May 19, 1911.

*Re Fugitive Offenders Act.*

The undersigned has the honour to recommend that a despatch be sent to the Lieutenant Governors of all the provinces, stating that with a view to securing a uniform system in the procedure to be followed upon applications made to the Government of Great Britain for the surrender to Canada of fugitives from the justice of Canada, it is desirable, in future, that the Secretary of State for Canada be notified by the proper Provincial authorities of the proceedings intended to be taken tending to the apprehension, detention and surrender of fugitives and that a request be made to him to apply to the Colonial Office for the delivery of such fugitives, such request in all cases to state:

1. That it is made under the Fugitive Offenders Act;
2. The name of the offence committed and whether it is one punishable by twelve months' imprisonment.
3. The name of the officer appointed to receive the criminal.

In the past, incomplete requests made directly to the Criminal Investigation Department at New Scotland Yard, have been the cause of unnecessary delay and expense and also extra attention, which could have been avoided if some uniform system had existed that would ensure the requisite particulars going forward in proper shape from the Dominion Government through the usual diplomatic channel.

It is to avoid these inconveniences that the suggestion is made to establish a uniform rule with regard to such matters.

E. L. NEWCOMBE,

D. M. J.

The Honourable

The Secretary of State.

## No. 25.

## TO THE CHIEF OFFICERS OF POLICE OF THE UNITED KINGDOM.

METROPOLITAN POLICE OFFICE,

January 1, 1880.

GENTLEMEN,—The attention of Mr. Secretary Cross having been directed by the Chief Magistrate of the Metropolitan Police Courts to the desirability of defining the procedure under the Extradition Acts, 1870, 1873, and the Treaties concluded between Her Majesty's Government and the several Foreign States, I have been instructed to lay before you the following summary thereof.

1.\* Treaties of extradition are in force between Her Majesty's Government and the Governments of—

- |                     |                                   |
|---------------------|-----------------------------------|
| 1. France.          | 8. The Netherlands.               |
| 2. Germany.         | 9. Denmark.                       |
| 3. Austria-Hungary. | 10. Sweden and Norway.            |
| 4. Brazil.          | 11. Switzerland.                  |
| 5. Spain.           | 12. Hayti.                        |
| 6. Italy.           | 13. The United States of America. |
| 7. Belgium.         |                                   |

2. The offences for which persons can be surrendered to either State by the other are set forth in the schedule hereto in the words of the several Treaties.

3. The Treaties usually provide that the subjects of the one Government shall not be surrendered to take their trial for any offence committed within the jurisdiction of the other. But the Spanish Treaty binds the Government of the United Kingdom to surrender British subjects charged with, or convicted of, offences committed in the territory of Spain.

4. The arrest of a fugitive criminal within the United Kingdom may be effected in two ways:—

(a) Under Subsection 1 of Section 8 of the Extradition Act of 1870, 33 and 34 Vict. c. 52, by a warrant from a Metropolitan Police Magistrate at Bow Street, upon receipt of the order of the Secretary of State, and on such evidence as would justify the issue of the warrant if the crime had been committed within the United Kingdom.

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\* See page 51—Treaties in force in 1907.

(b) Under Subsection 2, by any Police Magistrate or Justice of the Peace in any part of the United Kingdom, on such information or complaint, and such evidence, or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed, or the criminal convicted, in that part of the United Kingdom in which he exercises jurisdiction.

5. The first method is by the preferment of the request for arrest and extradition by the Foreign Government through its accredited representative at the British Court, to Her Majesty's Secretary of State for Foreign Affairs, who transmits it together with the warrant, information, depositions, etc., specifying the crime and identifying the accused therewith, to the Secretary of State for the Home Department for the issue of his directions thereon.

6. The second method is that provided for urgent cases wherein the time necessary for the carrying out of the first and more regular proceeding is wanting, a method provided to prevent the escape of a fugitive criminal from justice, pending the formal requisition for surrender, and the arrival of the documents required by law.

7. A sworn information of the fact of the crime, and reasonable suspicion of guilt is invariably required in practice before the issue of a warrant.

This information may according to the opinion of the Law Officers of the Crown (Sir Richard Baggallay, and Sir John Holker, December 3rd, 1874), and the practice of the Bow Street Police Court (when there is reasonable ground to suppose that the offender is within its jurisdiction) be based upon a letter, or telegram, purporting to be from a diplomatic, judicial, or police authority, stating—

(a) The alleged offence.

(b) That a warrant has been granted for the apprehension of the alleged criminal concerning whose identity full information is essential.

(c) That his extradition will be demanded.

The Chief Magistrate has particularly drawn the Secretary of State's attention to the paramount necessity of such letter or telegram, specifying in distinct terms, as much the offence as that the formal request for extradition will be preferred; and

he considers this to be an absolute condition precedent to the taking of any step.

8. Failing the issue of such warrant, which, as before stated, may be granted by any justice of the peace, in any part of the United Kingdom, an arrest should not, in Mr. Cross's opinion, be effected, save in the most urgent and exceptional cases, which would be guided by the ordinary law of arrest.

9. On the issue of a warrant under 33 and 34 Vict., c. 52, s. 8-11, a report has to be forthwith sent to the Secretary of State for the Home Department, of the issue of such warrant, together with the evidence, and the sworn information, or complaint, or certified copies thereof.

The Secretary of State may, if he think fit, order the warrant to be cancelled, and the person who has been apprehended on it discharged.

10. On the apprehension of any person under the Extradition Acts, 33 and 34 Vict., c. 52, s. 8, and the treaty with any country, he is to be brought before a magistrate of the Bow Street Police Court, and this, although the warrant may have been issued by a Justice of the Peace in some other part of the United Kingdom.

As the evidence of the officer effecting the arrest on a provincial warrant will be indispensable at Bow Street, the simplest course is for the prisoner to be brought to London by him, with a conduct warrant in the form provided in the Second Schedule of the Statute 33 and 34 Vict., c. 52, the expenses being repaid by the Metropolitan Police who recover them from the Treasury.

11. After the committal of a prisoner to take his trial in a Foreign State for a criminal offence therein committed, fifteen days must elapse before his surrender, to enable him to apply for a writ of habeas corpus, and to appeal to the High Court of Justice against the legality of his being given up.

12. In surrendering prisoners to Continental states, the Metropolitan Police convey them at the cost of the Treasury as far as the port of embarkation, and from that port to the port of surrender, in cases in which arrangements have been made for delivering them actually in the country, at the cost of the Government demanding the surrender.

13. In demanding the surrender of a person from a foreign country to take his trial before British tribunals for an offence committed within the dominions of the Queen, an official letter of request should be addressed to the Under Secretary of State for the Home Department by the Chief Officer of Police, transmitting for the consideration of the Secretary of State,—

(a) A certified copy of the warrant.

(b) A certified copy of the sworn information on which it was granted, setting forth the evidence very fully, so as to show that there is a *prima facie* case for a committal for trial.

(c) A certified copy of the depositions, if any, which have been taken.

(d) A description and, if possible, a photograph of the accused.

(e) Some indication as to where, and in whose company, the accused may be found in the Foreign State; or at least a summary of the reasons tending to the belief of his flight thither.

14. If these documents appear to the Secretary of State to be in due form, and the case one fitting for a demand of extradition, they will be transmitted to the Foreign Office, and thence, through the diplomatic channel, to the competent judicial and police authorities of the country concerned.

15. It will be desirable in most cases for the Chief Officer of Police demanding the extradition to despatch a letter or telegram to the competent authority, briefly noting the particulars of the request, and adding that the official demand for extradition is about to be made, and requesting such provisional measures as may be possible or expedient.

16. Many points of practice cannot necessarily be included in a summary of this character, but such further information as it may be in my power to furnish as the occasion arises has only to be sought to receive that attention which it is my earnest desire to give to the wishes of chief officers of the police in all parts of the Kingdom.

I am, gentlemen,  
Your very obedient servant,

C. E. H. VINCENT.  
Director of Criminal Investigations.

## No. 26.

DOWNING STREET,

22nd October, 1907.

SIR,—With reference to Circular Despatches of the 20th of January, 1904, and 25th of March, 1907, I have the honour to transmit, for the information of your Government, copies of a revised edition of the Memorandum prepared by the Home Office with regard to procedure in extradition cases, and cases under the *Fugitive Offenders Act, 1881*.

I have the honour to be,

Sir,

Your most obedient, humble servant,

ELGIN.

The Officer Administering the  
Government of Canada.

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## No. 27.

## Extradition and Fugitive Offenders.

MEMORANDUM AS TO PROCEDURE IN EXTRADITION CASES AND  
CASES UNDER THE FUGITIVE OFFENDERS ACT, 1881.

*Revised 1st October, 1907.*

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I. The return of fugitive criminals escaping from the United Kingdom may be obtained—

(a) From foreign countries with which there are Extradition Treaties.

(b) From British possessions.

(c) From foreign countries in which the King has jurisdiction, and to which the Fugitive Offenders Act has been applied by Order in Council as if they were British possessions.

The return of fugitives taking refuge in the United Kingdom is granted reciprocally in each of these cases.

The procedure is governed in the first case by the Extradition Acts, 1870, 1873 and 1895 (33 and 34 Vict., c. 52, 36 and 37 Vict., c. 60, 58 and 59 Vict., c. 33), and by the terms of the Extradition Treaty in force with each country:

In case (b) by the Fugitive Offenders Act, 1881 (44 and 45 Vict. c. 69):

In case (c) by the Fugitive Offenders Act, 1881, and the Orders in Council applying it. In this case only British subjects and persons subject to the King's jurisdiction in the foreign country in question can be dealt with.

There have been a few cases in which a foreign country with which Great Britain has no extradition treaty has surrendered a criminal as an act of international comity; but there can be no reciprocal surrender of criminals by His Majesty's Government in the absence of an extradition treaty.

Where a fugitive criminal charged with a serious crime has escaped to a country with which there is no treaty, His Majesty's Government will generally be prepared to inquire whether his surrender can be granted, if they are satisfied that the indemnity and evidence required in extradition cases (para. IV) will be furnished, and that, in the event of his surrender, it is intended to proceed with the prosecution.

#### EXTRADITION—FUGITIVES FROM THE UNITED KINGDOM.

##### *Cases in which Extradition can be Applied for.*

II. When a person charged with crime in the United Kingdom is believed to have fled to a foreign country, the questions to be considered before an application for extradition is made are—

(1) Whether the country to which he has fled is one with which there is an Extradition Treaty.

A list of the Extradition Treaties now in force (1st October, 1907) is given in Appendix A.

(2) Whether the crime with which he is charged is an extradition offence, and one included in the particular treaty.

A list of the extradition offences, showing the treaties in which each is included, is given in Appendix C.

(3) Whether the offender is a subject or citizen of the country to which he has fled.

(a) A provision that neither of the contracting parties may surrender its own subjects is contained in the Treaties with Brazil, France, Germany, Guatemala, Hayti, Italy, Nicaragua, Norway, Portugal, Salvador, Sweden and Tonga.

In the Treaties with Denmark and Uruguay also subjects are excepted from the operation of the Treaty.

Under the Treaties with Brazil, France, Italy, and Portugal persons who have been naturalized after the commission of the crime may be surrendered.

(b) A provision allowing each Government the option of surrendering at discretion its own subjects is contained in the Treaties with the Argentine Republic, Austria, Belgium, Bolivia, Chile, Columbia, Cuba, Liberia, Mexico, Monaco, the Netherlands, Panama, Peru, Roumania, Russia, Servia, and San Marino.

(c) The Treaties with the United States, containing no reference to nationality, extend to the subjects of each country equally with other fugitive criminals.

(d) The Treaties with Luxemburg, Spain and Switzerland exclude the surrender of their own subjects by the Governments of Luxemburg, Spain and Switzerland, but stipulate for the surrender of British subjects by His Majesty's Government.

(e) In the Treaty with Ecuador there is no express exclusion from extradition of the subjects or citizens of either contracting party, though it contains a provision that naturalization is not to be a bar to extradition.

### *Application for Extradition addressed to Secretary of State.*

III. The application for the surrender of a fugitive criminal from a foreign country must be addressed by the prosecutor or the police to the Secretary of State for the Home Department, who will communicate, through the Foreign Office and the proper diplomatic channels, with the authorities of the place where the fugitive is supposed to be.

The chief officers of English police forces may communicate direct with the police of foreign countries for the purpose of giving or obtaining *information*, but under no circumstances should direct application be made to foreign police for the arrest of a fugitive. Serious difficulties have arisen in cases where this direction has been overlooked.

Where the apprehension of the fugitive is a matter of urgency, the Secretary of State will apply by telegram for the provisional arrest in anticipation of the formal demand for surrender. Where a treaty provides for the provisional arrest of a fugitive in a foreign country it usually fixes a period varying from 14 to 60 days from the date of arrest within which the claim for extradition must be made.<sup>(a)</sup>

#### *Particulars and Documents to Accompany Application.*

IV. The application to the Secretary of State should be made by letter, stating briefly the facts of the case, and giving in detail the information as to the fugitive's supposed whereabouts and the means of tracing and identifying him. It must be accompanied by—

- (a) The warrant of arrest or a certified copy of it.
- (b) The other documents to be used in support of the demand for extradition. (See para. V.)
- (c) A description of the accused sufficient for purposes of identification, with, if possible, a photograph. (It is usually advisable that the description should form part of the formal evidence.)
- (d) An indemnity for expenses (see para. VIII).

The letter should also state whether it is desired that the provisional arrest of the fugitive should be asked for by telegram.

In cases of urgency, if the informations or depositions required to support the demand for extradition have not been completed, it will sometimes be sufficient, in order to obtain the provisional arrest of the fugitive, to furnish in the first instance only a warrant of arrest and the indemnity for expenses, pro-

(a) Home Office Circular of 9 June, 1891.

vided an explicit undertaking be given to complete the informations and other documents, and forward them with the least possible delay.

*Documents—Warrant, Informations, etc.*

V. A warrant for the arrest of the fugitive on the charge for which his extradition is sought, or a certified copy of it, must in every case form part of the documents to be used in support of the demand. As regards the other documents, the requirements of different treaties vary somewhat. In the case of France and some other countries, it suffices if the warrant is accompanied by an information showing exactly the nature of the offence charged, and by sufficient evidence of the identity of the person arrested. In most cases, however, informations or depositions containing *prima facie* evidence of the commission by the fugitive of the offence charged—such as in this country would justify committal for trial—are required.

The requirements of the various Treaties with regard to the documents to be furnished are quoted in Appendix D.

*Documents.—Special Requirements as to Warrants, Informations, etc.*

VI. It is necessary that the utmost care should be taken in extradition cases to secure that the documents—warrant, informations, and depositions—are correct in form, and that the evidence is complete in material points. Several cases have occurred in which, after a fugitive criminal has been apprehended in a foreign country, inaccuracies in the warrant or defects in the evidence have led to his being set at liberty before steps could be taken to remedy the mistakes.

Where the flight of the accused is not known until after the warrant has been issued, and especially where an information is hastily laid in order to obtain his immediate arrest, it is in many cases advisable that a fresh warrant, on an amended information should be issued before the formal application is made to the foreign country for his surrender.<sup>(a)</sup>

The offence stated in the warrant should be set forth in the terms of the Treaty.

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(a) Home Office Circular of 2 Feb., 1886.

If copies of the informations or depositions are sent instead of the originals (as is usually the more convenient course, fresh copies of these documents being often required when the demand for extradition has to be made to several countries successively), the copies should be authenticated\* by a magistrate—if possible by the magistrate by whom the originals were issued or taken.

In the case of extradition from the United States special care should be taken to have the evidence complete from the first.

#### *Application for Extradition on Several Charges.*

VII. Where there are several charges against the fugitive, there should be evidence in the informations or depositions, with regard to every charge on which it is proposed that he should be tried after his surrender. After his surrender he cannot be tried on any other charge than the charge or charges on which he was extradited, unless he is restored, or an opportunity given him of returning, to the country from which he was surrendered.

#### *Indemnity for Expenses.*

VIII. The indemnity for expenses, which is required in all cases except those undertaken by the Director of Public Prosecutions, must be in the form given in Appendix E,† and must be signed by the prosecutor. It need not be stamped.

In cases of extradition from the Argentine Republic, Bolivia, Chile, Colombia, Cuba, Liberia, Mexico, Monaco, Panama, Peru, Portugal, Roumania, Russia, Servia and the United States all the expenses have to be borne by the demanding State. In all other cases the foreign Government bears all the expenses which it incurs within its own territories. All expenses not so defrayed by the foreign Government, and not payable as police expenses under the ordinary regulations, must be borne by the prosecutor.

#### *English Police Officers Sent Abroad in Connection with Extradition Cases.*

IX. It is occasionally in exceptional cases considered desirable, when an application for extradition is made, that an

\*The form of authentication used at Bow Street is printed in Appendix F.

† It may, if necessary, be limited to certain specified countries; but such a limitation causes serious delay in the proceedings if the fugitive passes to another country and a fresh indemnity has to be procured.

English police officer should be sent out to assist the foreign police in tracing and identifying the accused.

When this is done the officer should take with him a letter of introduction, which he may present as occasion requires to British ministers or consuls abroad. He should attend for this purpose at the Home Office, with an introduction from the chief officer of his force; or, if it is not convenient that he should attend personally, the chief officer should apply to the Home Office by letter stating the name and rank of the officer about to be sent out. It is also generally advisable that he should be provided with a passport.

He should, where possible, see the warrant and depositions signed, as cases have occurred where his evidence to this effect has removed difficulties.

An officer sent abroad in an extradition case must confine his action strictly to tracing the fugitive, and furnishing the foreign police with information. Under no circumstances may he himself attempt to arrest the fugitive, interfere in any way with his liberty in a foreign country, or endeavour by threats or undue pressure to induce him to return to England without awaiting the formalities of extradition. If a fugitive whose extradition has been demanded should voluntarily consent to return with the officer without formal extradition, the concurrence of the authorities of the foreign country must be obtained before this course is taken.<sup>(a)</sup>

#### *Further Evidence.*

X. After the fugitive has been arrested, further evidence is sometimes required by the courts of the foreign country, which must be supplied by the prosecutors. Occasionally the attendance of a witness is required to prove the identity of the person arrested. In most of the treaties a period is specified within which necessary evidence must be completed.

#### *Conveyance of Prisoner to England.*

XI. When the decision of the Government of the foreign country to concede the surrender of the fugitive is notified, the conveyance of the prisoner to England is a matter of arrange-

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(a) Home Office Circular of 25 October, 1884.

ment, and the necessary instructions are sent by the Home Office to the head of the police force concerned. The Metropolitan Police have standing arrangements with the police of most continental countries with regard to the conveyance of extradition prisoners.

In United States cases it is as a rule necessary to send out an officer to bring the prisoner, if surrendered, to England; and it is in some cases convenient that he should be sent out as soon as information is received of the arrest of the fugitive, as the presence of an experienced officer who can furnish the United States courts with information they may require may facilitate proceedings.

In the case of extraditions from Spain an officer has usually been sent out when the demand for extradition is made.

#### *United States Cases.*

XII. Information as to the extradition proceedings in the United States, and as to the particulars required by the United States courts when an arrest is applied for by telegram, are given in the papers reprinted in Appendix G.

#### EXTRADITION.—FUGITIVES FROM FOREIGN COUNTRIES IN THE UNITED KINGDOM.

XIII. For the arrest of a foreign criminal in the United Kingdom, the Channel Islands, and the Isle of Man two alternative procedures are provided in sub-section (1) and sub-section (2) respectively of section 8 of the Extradition Act, 1870.

#### *Arrest after Formal Requisition.*

XIV. The first—that under subsection (1)—is adopted in cases where the arrest of the fugitive is not urgent.

A requisition for the surrender of the accused, supported by the warrant of arrest and documentary evidence, is addressed by the representative of the foreign Government to the Secretary of State for Foreign Affairs, and transmitted by him to the Secretary of State for the Home Department, who thereupon makes an order to the Chief Magistrate at Bow Street Police Court, requiring him, if satisfied as to the sufficiency of the

evidence, to issue his warrant for the arrest of the fugitive. The Chief Magistrate's warrant is effective without endorsement throughout the United Kingdom, and is usually executed by an officer of the Metropolitan Police, who brings the prisoner direct to Bow Street, where all the subsequent proceedings take place. Provision, however, is made by the Extradition Act, 1895, for the hearing of the case elsewhere than at Bow Street in case of the serious illness of the prisoner.

### *Provisional Arrest.*

XV. The alternative procedure, under subsection (2), is adopted in cases where the arrest of the fugitive is a matter of urgency. In this case any police magistrate or justice of the peace\* may issue the warrant for the apprehension of the fugitive "on such information or complaint, and such evidence, "or after such proceedings, as would in the opinion of the person "issuing the warrant justify the *issue of a warrant*, if the crime "had been committed in that part of the United Kingdom in "which he exercises jurisdiction."

In practice, a sworn information showing a reasonable suspicion of the commission of the crime and of the guilt of the alleged offender is required before the issue of a warrant under subsection (2). This information may, according to the opinion of the Law Officers of the Crown (Sir Richard Baggallay and Sir John Holker, 25th March, 1875), and the practice of the Bow Street Police Court,† be based upon a letter or telegram purporting to be from a diplomatic, judicial, or police authority, stating—

- (a) The alleged offence;
- (b) That a warrant has been granted for the apprehension of the alleged criminal;
- (c) That his extradition will be demanded.

The letter or telegram should in every case clearly specify the offence with which the fugitive is charged (which must be one within the Treaty with the country from which he is alleged to have fled), and must state in distinct terms that a formal request for extradition will be preferred.

\* In Scotland, including any sheriff, sheriff's substitute, or magistrate.

† See also the remarks of Jessel, M.R., in *Reg. v. Weil*, 15 Cox, C.C. 193. "All that the Act requires is that the evidence should be sufficient 'in the opinion of the person issuing the warrant.' 'That is a matter of judicial discretion. There must be some evidence but very little will do, "for it is merely for the purpose of detaining the man.'

There is no restriction in the Act as to the person by whom the information is to be laid, and it may, where necessary, be laid by a police officer; but, as a rule, it is desirable that the information should be laid before the magistrate or justice by the consul or other accredited agent of the foreign Government, who should also produce the despatch, letter, or telegram on which the information is founded. A copy of the form of information in use at Bow Street is printed in Appendix F.

On the issue of the warrant of arrest, under subsection (2), the justice forthwith sends to the Secretary of State "a report "of the fact of such issue, together with the evidence and "information or complaint, or certified copies thereof."

On the arrest of a fugitive by a warrant under subsection (2), if the warrant was issued at Bow Street, the prisoner is at once brought to that court; if the warrant was issued elsewhere, the prisoner is brought before the justice who issued the warrant, or some other justice having power to issue such warrant, who immediately orders him to be brought before a police magistrate at Bow Street.

The evidence of the officer making the arrest is required in the examination at Bow Street. It is therefore usual, when the arrest has been made elsewhere than in London, that the officer who made the arrest should bring up the prisoner to London and attend with him at Bow Street.

XVI. The arrest of an offender with a view to extradition should not take place without a warrant under section 8 of the Extradition Act, save in the most urgent and exceptional cases, and should then be guided by the ordinary law of arrest. If a person has been arrested without warrant, a warrant under section 8 (2) should be obtained as quickly as possible. Reg. v. Weil, 15 Cox, C.C., 193; 9 Q.B.D. 701; 53 L.J.M.C. 74.

#### *Proceedings at Bow Street Police Court.\**

XVII. After the prisoner is brought to Bow Street, the subsequent proceedings take place in that Court, in accordance with the requirements of the Extradition Acts and of the several Treaties. If the prisoner is committed for surrender, a period of 15 days is allowed him in which he may apply to the High Court for a writ of Habeas Corpus. If he makes no

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\* 33 & 34 Vict., c. 52, s. 11.

application, or if the application is made and refused, the Secretary of State issues his warrant for the surrender of the prisoner, and he is handed over by the Metropolitan Police to the officers of the government demanding his surrender, either at an English or at a foreign port according to the arrangement in force with the different countries.

### *Extradition of Convicted Offenders.*

XVIII. The proceedings for the arrest of an offender convicted in a foreign country and escaping to England are the same as those in the case of an accused person. The only difference is as to the nature of the evidence required in the hearing of the case at Bow Street.

### *Crimes Committed at Sea.\**

XIX. In cases of crimes committed on foreign vessels on the high seas, when the vessel comes into a British port, and the surrender of the criminal is sought, the stipendiary magistrate<sup>(a)</sup> having jurisdiction in, or in the place nearest to, the port, may exercise the powers which in other cases are exercised by the chief magistrate at Bow Street. He may hear the case with the same powers as the chief magistrate, and may commit the prisoner for extradition. His warrant, however, is not effective without endorsement beyond his ordinary jurisdiction.

This jurisdiction\*\* is in addition to and not in derogation of the jurisdiction of the chief magistrate at Bow Street.

### *Expenses.*

XX. The Governments of the Argentine Republic, Bolivia, Chile, Colombia, Cuba, Liberia, Mexico, Monaco, Panama, Peru, Portugal, Roumania, Russia, Servia, and the United States, under the terms of the treaties with these countries, defray all expenses incurred in connection with cases in which they demand the extradition of fugitives. In the case of all other countries, expenses incurred within the United Kingdom are defrayed by the English Government, those incurred outside the British territories are borne by the foreign government.

The accounts for the expense incurred in each extradition case are submitted by the Metropolitan Police to the Secretary

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\* 33 & 34 Vict., c. 52, s. 16.      \*\* 36 & 37 Vict., c. 60, s. 6.  
(a) In Scotland, the sheriff or sheriff-substitute.

of State, who claims from the Treasury and foreign government the sums payable by each respectively. Where a person whose extradition is claimed is arrested by provincial police, the expenses incurred in connection with the arrest, including the conveyance of the prisoner to London, and the attendance of the officer at Bow Street, should be reclaimed\* from the Metropolitan Police, who will include them in the accounts submitted to the Secretary of State.

#### FUGITIVE OFFENDERS ACT, 1881.—FUGITIVES FROM THE UNITED KINGDOM.

XXI. When a person who has committed a crime in the United Kingdom has fled to any British possession (i.e., to any part of His Majesty's dominions exclusive of the United Kingdom, the Channel Islands, and the Isle of Man), an order for his return can be obtained, if the offence he has committed be treason or piracy<sup>(a)</sup>, or any offence for the time being punishable in the United Kingdom by imprisonment with hard labour for a term of 12 months or more, or by any greater punishment.

No question of nationality arises in this case.

#### *Application for Return.*

XXII. The application for the return of a fugitive from a British possession should be addressed by the prosecutor or the police to the Secretary of State for the Home Department, who will communicate with the Governor of the British possession where the fugitive is supposed to be.

The Fugitive Offenders Act does not exclude direct applications by the prosecutor to the authorities of the British possession. The arrest of a fugitive may (section 3) be made on a warrant endorsed by a judge of a Superior Court or by the Governor of a British possession; and, by section 4, in cases of urgency, a magistrate in the place to which the offender is supposed to have fled, may issue a provisional warrant for his apprehension, "on such information and under such circumstances as would in his opinion justify the issue of a warrant if 'the offence of which the fugitive is accused had been committed 'within his jurisdiction.'" Direct applications by the prose-

\* Any railway fares so claimed should be those allowed by the Cheap Trains Act, 1883.  
(a) 44 & 45 Vict., c. 69, s. 9.

cutors or the police are, however, found to be attended with difficulties, as the Colonial authorities usually refuse to take proceedings on applications from private persons, especially in the case of telegrams where they have no guarantee as to their genuineness, and no assurance that the expenses they may incur will be repaid. The practice is therefore that all applications are made through the Home Office, and in cases of urgency a telegram asking for the provisional arrest of the fugitive is sent by the Secretary of State for the Home Department to the competent authority in the British possession.

*Particulars and Documents to Accompany Application.*

XXIII. The application to the Secretary of State should be made by letter, stating briefly the facts of the case, and giving in detail the information as to the fugitive's supposed whereabouts, and the means of tracing and identifying him. It must be accompanied by—

- (a) The warrant of arrest in duplicate;
- (b) The documents (depositions, etc.) containing the evidence on which the return of the fugitive is claimed, with certified copies of the same (see para. XXIV);
- (c) A description of the accused sufficient for purposes of identification, with, if possible, a photograph;  
(It is usually advisable that the description should form part of the formal evidence.)
- (d) An indemnity for expenses (see para. XXVII).

The letter should also state whether it is desired that the provisional arrest of the fugitive should be asked for by telegram.

In cases of urgency, if the depositions, etc., required to support the application for return have not been completed, it will usually be sufficient, in order to obtain the provisional arrest of the fugitive, to furnish in the first instance a warrant of arrest and the indemnity for expenses, an explicit undertaking being given to complete the depositions and other documents and forward them with the least possible delay.

*Documents sent in Duplicate.\**

XXIV. The warrant, informations, and depositions are sent to the Home Office in duplicate, in order that two complete

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\* 44 & 45 Vict., c. 69, s. 29.

sets of documents may be authenticated with the Secretary of State's seal. One set (including the *original* depositions) is then returned, in order that, if a police officer is sent out in connection with the application, he may take them with him; the other set (which includes the warrant in original and copies of the depositions) is despatched to the Governor to support the official request for the return.

*Requirements as to Warrant, Informations, and Depositions.*

XXV. It is necessary that the utmost care should be taken in cases under the Fugitive Offenders Act to secure that the documents—warrant, informations, and depositions—are correct in form, and that the evidence is complete in material points. Cases have occurred in which, after a fugitive criminal has been apprehended, inaccuracies in the warrant or defects in the evidence have led to his being set at liberty before steps could be taken to remedy the mistakes.

(a) The evidence<sup>(a)</sup> supporting the application for the return of a fugitive must be such as, "according to law "ordinarily administered by the magistrate" before whom he is brought, "raises a strong or probable presumption "that the fugitive committed the offence mentioned in the "warrant," that is, generally speaking, there must be informations or depositions containing such *prima facie* evidence of the commission of the offence charged as in this country would justify committal for trial.

(b) Evidence necessary for the identification of the fugitive as the person named in the depositions must be furnished.

(c) Evidence must also be supplied to show that by the law of this country the offence is punishable, either on indictment or information, by imprisonment with hard labour for a term of 12 months or more or by some greater punishment\*. This may in some cases be proved at once by the production of the statute applicable to the offence: if not, it may be proved by a sworn deposition by an expert (*i.e.* any judge, advocate, barrister, or solicitor, or any official in a position from which a knowledge of law may be

(a) 44 & 45 Vict., c. 69, s. 5.

\* See as to this the recent decision of the High Court in the case of *R. v. Governor of Brixton Prison, ex parte Percival* (1907, L.R., 1 K.B., 696).

presumed) to the above effect. A deposition by the Clerk to the Justices who deal with the case will usually be the most convenient means of complying with this requirement, and it is the means adopted in the Metropolitan Police District.

Where the flight of the accused is not known until after the warrant has been issued,<sup>(a)</sup> and especially where an information is hastily laid in order to obtain his immediate arrest, it is in many cases advisable that a fresh warrant be issued on an amended information, before the formal application for his return from the British possession is made.

Depositions may, for the purpose of the Fugitive Offenders Act, be taken in the absence of the accused.<sup>(b)</sup>

The copies of informations or depositions should, if possible, be authenticated by the magistrate by whom the originals were taken.

#### *Application for Surrender on Several Charges.*

XXVI. Where it is proposed to prosecute several charges it is generally desirable† that evidence should be sent with regard to all the charges.

#### *Indemnity for Expenses.*

XXVII. The indemnity for expenses which is required in all cases, except those undertaken by the Director of Public Prosecutions, must be in the form in Appendix E,‡ and must be signed by the prosecutor. It need not be stamped.

The whole of the expenses incurred, including the cost of telegrams and the expense of sending out an officer to bring home the prisoner, must be borne by the prosecutor.

#### *English Police Officers sent out to British Possessions.*

XXVIII. It is sometimes considered desirable when an application is made under the Fugitive Offenders Act that an English police officer should be sent out to assist in tracing and identifying the accused.

(a) Home Office Circular of 2nd February, 1886.

(b) 44 & 45 Vict., c. 9, s. 29.

† This does not seem to be absolutely necessary. See R. v. Cohen, a case tried at the Central Criminal Court on the 1st February, 1907.

‡ It may, if necessary, be limited to a certain specified British possession; but such a limitation causes serious delay in the proceedings if the fugitive passes to another colony or country, and a fresh indemnity has to be procured.

When this course is taken the Home Office should be informed of the name of the officer, and of the date of his intended departure, in order that the colonial authorities may be informed.

The officer sent out, should, if possible, see the warrant and depositions signed, as his evidence to this effect sometimes removes difficulties. In any case he will take with him the warrant and original depositions, as mentioned in para. XXIV.

### *Further Evidence.*

XXIX. After the fugitive has been arrested, further evidence is sometimes required by the courts of the British possession, which must be supplied by the prosecutors.

Occasionally the attendance of a witness is required to prove the identity of the person arrested. If the evidence of identity can be given by a police officer, his services will also be available for the purpose of bringing home the prisoner (para. XXX).

### *Conveyance of Prisoner to England.*

XXX. When the decision of the courts of the British possession to order the return of the fugitive is notified, the conveyance of the prisoner to England is matter of arrangement between the Home Office and the government of the British possession. In practice the prisoner is almost invariably brought home by an English officer. If an officer has not already been sent out to trace the fugitive, one is usually sent as soon as the arrest is notified by telegram, as his evidence (see para. XXVIII. and XXIX.) sometimes facilitates the proceedings in the courts, and his presence in the British possession prevents delay in bringing back the prisoner if his return is ordered. The prisoner can claim his release if not removed from the British possession within one month after his committal, unless sufficient cause can be shown to the contrary.<sup>(a)</sup>

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(a) 44 and 45 Vict., c. 69, s. 7.

FUGITIVE OFFENDERS ACT, 1881.—FUGITIVES FROM BRITISH POSSESSIONS IN THE UNITED KINGDOM.

XXXI. For the arrest of a fugitive from a British possession in the United Kingdom, two alternative procedures are provided:—

- (a) Apprehension under an endorsed warrant (section 3).
- (b) Apprehension under a provisional warrant (section 4).

*Apprehension on Endorsed Warrant.*

XXXII. The first course, apprehension under an *endorsed warrant*, is adopted in cases where the arrest of the fugitive is not urgent.

The warrant may be endorsed in the United Kingdom, either by the Secretary of State, by a judge of a Superior Court (High Court or Court of Appeal),<sup>1</sup> or by a police magistrate at Bow Street, provided the person endorsing is “satisfied that the ‘warrant was issued by some person having lawful authority to ‘issue the same.’” In ordinary practice applications for arrest under this section are addressed by the Colonial Governments to the Secretary of State for the Colonies, and are forwarded by the Colonial Office to the Secretary of State for the Home Department. An endorsed warrant<sup>2</sup> may be executed either by any of the persons named in the endorsement, or by any of the persons to whom it was originally directed, or by any constable in any part of the United Kingdom, in the Channel Islands, and the Isle of Man; and the prisoner when arrested may be brought either before a police magistrate at Bow Street Police Court, or before any justice of the peace, who will then order him to be brought before such police magistrate.<sup>3</sup>

*Apprehension on Provisional Warrant.*

XXXIII. The process of apprehension on *provisional warrant* is intended for cases of urgency, and most cases from the colonies fall under this head. A provisional warrant may be issued (section 4) by any justice of the peace for the apprehension of any fugitive who is or is suspected of being in or on his way to the United Kingdom, “on such information and under ‘such circumstances as would, in his opinion, justify the issue

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<sup>1</sup>45 and 46 Vict., c. 69, s. 3.    <sup>2</sup>Id. s. 26.    <sup>3</sup>Id. s. 30.

"of the warrant if the offence of which the fugitive is accused "had been committed within his jurisdiction."

In practice a sworn information, showing a reasonable suspicion that an offence has been committed, that the alleged offender is the guilty party, and that the offence is punishable by 12 months' imprisonment with hard labour or some greater punishment is required before the issue of the provisional warrant. This information may be based upon a letter or telegram purporting to be from the government or from any judicial or police authority of a British possession, stating:—

- (a) The alleged offence;
- (b) That a warrant has been granted for the apprehension of the alleged criminal;
- (c) That further proceedings in accordance with the Fugitive Offenders Act will be taken.

There is no restriction in the Act as to the persons by whom the information is to be laid, and in practice it is usually made by a police officer.

A provisional warrant may, if necessary, be backed for execution.<sup>1</sup>

The justice issuing a provisional warrant forthwith sends a report of the issue, together with the information, or a certified copy thereof, to a Secretary of State, who may, if he thinks fit, discharge the fugitive.

The magistrate before whom the fugitive offender who has been apprehended under a provisional warrant is brought orders him to be brought before one of the police magistrates of the Bow Street Police Court.<sup>2</sup>

The evidence of the officer making the arrest is required in the examination at Bow Street. It is therefore usual, when the arrest has been made elsewhere than in London, that the officer who made the arrest should bring up the prisoner to London and attend with him at Bow Street.

#### *Remand of Prisoner.*

XXXIV. The magistrate at Bow Street, before whom a prisoner arrested on a provisional warrant is brought, remands him for such reasonable time, not exceeding seven days at one

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<sup>1</sup>45 and 46 Vict., c. 69, s. 4.      <sup>2</sup>Id. s. 30.

time, as under the circumstances seems to him requisite for the production of the endorsed warrant.<sup>1</sup>

After the production of the endorsed warrant, the proceedings are the same as if the arrest had been, in the first instance, on an endorsed warrant.

### *Proceedings at Bow Street.*

XXXV. When the prisoner has been brought before the police magistrate, and the endorsed warrant produced (an endorsed warrant is required in all cases including those where the fugitive was arrested on provisional warrant), the magistrate proceeds to hear the case, in accordance with the provisions of the Fugitive Offenders Act, 1881, and subject to these provisions in the same manner and with the same jurisdiction and powers as if the prisoner were charged with an offence committed within his jurisdiction. If he is satisfied that the evidence produced raises, according to English law,<sup>2</sup> a strong or probable presumption that the fugitive committed the offence mentioned in the warrant, and that that offence is punishable by the law of the colony with 12 months' imprisonment or some greater punishment,\* he commits him for return. A period of 15 days is then allowed him in which he may apply to the High Court for a writ of habeas corpus. If he makes no application, or if the application is made and refused, the Secretary of State issues his warrant for the return of the prisoner, and he is either handed over to an officer deputed for that purpose by the Governor of the British possession, or is taken out to the British possession by an English officer, according to the arrangement that may be made in each case.

The prisoner must be removed within one month of his final committal to await his return, otherwise a Superior Court on application by the prisoner, will, unless sufficient cause is shown to the contrary, order him to be discharged.<sup>3</sup>

### *Return of Convicted Offender.<sup>4</sup>*

XXXVI. The proceedings for the arrest of an offender *convicted* in a British possession and escaping to England are

<sup>1</sup>45 and 46 Vict., c. 69, s. 5, *ad fin.*   <sup>2</sup>Id. s. 5.   <sup>3</sup>Id. s. 7.   <sup>4</sup>Id. s. 34.

\* See *R. v. Governor of Brixton Prison, ex parte Percival* (1907), L.R., 1 K.B., 696. The Evidence (Colonial Statutes) Act, 1907, makes any copy of a Colonial Act which purports to be printed by the Government printer evidence in all courts of justice in the United Kingdom.

the same as those in the case of an accused person. The only difference is as to the nature of the evidence required in the hearing of the case at Bow Street.

*Scotland and Ireland.*

XXXVII. In Scotland the powers exercised in England by a police magistrate at Bow Street, of hearing a case and committing a prisoner to await his return, are exercised by the sheriff or sheriff substitute of the county of Edinburgh; those of a justice of the peace (to issue a provisional warrant, etc.) are exercised by any sheriff or sheriff substitute; and those of a Superior Court by the High Court of Justiciary.<sup>1</sup>

In Ireland the powers of the police magistrate are exercised by one of the police magistrates of the Dublin Metropolitan Police District, and those of a Superior Court by the Court of Appeal and High Court of Justice at Dublin. The power of the Secretary of State may be exercised as regards Ireland not only by the Secretary of State, but also by the Lord Lieutenant, Lords Justices, or Chief Secretary.<sup>2</sup>

*Expenses.*

XXXVIII. The expenses of arresting and procuring the return of a fugitive under the Fugitive Offenders Act are to be borne by the Government or the individual applying for his return, and cannot be charged either to imperial or police funds.

The police should, therefore, as a rule incur no expenditure, and take no steps—as by causing an application to be made either for a provisional warrant or for an endorsement of a warrant, or by directing the execution of an endorsed warrant—unless they are either acting under instructions from the Secretary of State, or have obtained an adequate indemnity or prepayment from the persons applying for the return of the fugitive. Only in the event of emergency, where the loss of a few hours would be irretrievable, will they be justified in taking such action as may be imperatively required; but in that case the matter should, as soon as possible afterwards, be reported to the Secretary of State.

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<sup>1</sup>45 and 46 Vict., c. 69, ss. 30, 39.   <sup>2</sup>Id. s. 11.

APPLICATION OF FUGITIVE OFFENDERS ACT, 1881, TO FOREIGN  
COUNTRIES AND BRITISH PROTECTORATES.

XXXIX. By section 36 of the Fugitive Offenders Act, His Majesty may by Order in Council direct that the Act shall apply to any place named in the Order *out of His Majesty's dominions*, but *in which His Majesty has jurisdiction*, as if such place were a British possession. The Order may provide for carrying out the application of the Act, which may be made subject to conditions, exceptions, and qualifications.

Under this section the Fugitive Offenders Act has been applied to various countries in which His Majesty's Consular and Protectorate Courts have jurisdiction under the Foreign Jurisdiction Acts.

A list of these countries, with the section of the Order in Council applying the Fugitive Offenders Act in each case, is given in Appendix B.

The preliminary steps to obtain the return of a fugitive who has fled from England to any of these countries will be the same as in the case of a British possession: as will also the steps for the arrest within the United Kingdom of a fugitive from any of these countries. Only persons subject to the King's jurisdiction in the foreign countries can be dealt with under these Orders, and in most of them the application of the Fugitive Offenders Act is expressly restricted to British subjects.

*Home Office, Whitehall,  
1st October, 1907.*

## APPENDIX A.

## LIST OF EXTRADITION TREATIES IN FORCE.

COUNTRIES.	DATES.	
	Treaties.	Orders in Council.
Argentine Republic.....	22nd May, 1889.....	29th January, 1894.
Austria-Hungary.....	3rd December, 1873.....	17th March, 1874.
" { Convention extending from 14 days to one month, the period mentioned in Article XI. of Treaty of 3rd December, 1873.	26th June, 1901.....	15th September, 1902.
Belgium.....	29th October, 1901.....	6th March, 1902.
Bolivia.....	22nd February, 1892.....	20th October, 1898.
Brazil.....	13th November, 1872.....	20th November, 1873.
Chile.....	26th January, 1897.....	9th August, 1898.
Colombia.....	27th October, 1888.....	28th November, 1889.
Cuba.....	3rd October, 1904.....	10th May, 1905.
Denmark.....	31st March, 1873.....	26th June, 1873.
Ecuador.....	20th September, 1880.....	26th June, 1886.
France.....	14th August, 1876.....	16th May, 1878.
" Declaration as to Tunis.	13th February, 1896.....	22nd February, 1896.
Germany.....	31st December, 1889.....	1st May, 1890.
German Dependencies.....	14th May, 1872.....	25th June, 1872.
Guatemala.....	5th May, 1894.....	2nd February, 1895.
Haiti.....	4th July, 1885.....	26th November, 1886.
Italy.....	7th December, 1874.....	5th February, 1876.
" Declaration.	5th February, 1873.....	24th March, 1873.
Liberia.....	7th May, 1873.....	
Luxemburg.....	16th December, 1892.....	10th March, 1894.
Mexico.....	24th November, 1880.....	2nd March, 1881.
Monaco.....	7th September, 1886.....	6th April, 1889.
Netherlands.....	17th December, 1891.....	9th May, 1892.
Nicaragua.....	26th September, 1898.....	2nd February, 1899.
Norway.....	19th April, 1905.....	11th May, 1906.
" Agreement.	26th June, 1873.....	30th September, 1873.
Panama.....	18th February, 1907.....	6th July, 1907.
Peru.....	25th August, 1906.....	12th August, 1907.
Portugal.....	26th January, 1904.....	7th May, 1907.
" Protocol. Not to apply to India.	17th October, 1892.....	{ 3rd March, 1894.
Roumania.....	30th November, 1892.....	
Russia.....	21st March, 1893.....	30th April, 1894.
Salvador.....	24th November, 1886.....	7th March, 1887.
San Marino.....	23rd June, 1881.....	16th December, 1882.
Servia.....	16th October, 1899.....	3rd March, 1900.
Spain.....	6th December, 1900.....	15th June, 1901.
" Declaration.	4th June, 1878.....	27th November, 1878.
Sweden.....	19th February, 1889.....	28th May, 1889.
" Agreement.	26th June, 1873.....	30th September, 1873.
Switzerland.....	2nd July, 1907.....	12th August, 1907.
" Convention.	26th November, 1880.....	18th May, 1881.
Tonga.....	29th June, 1904.....	29th May, 1905.
United States of America.....	29th November, 1879.....	30th November, 1882.
	9th August, 1842.....	{ [No Order in Council ( <i>see</i> Extradition Act, 1870, Sec. 27).]

APPENDIX A—*Concluded.*

## LIST OF EXTRADITION TREATIES IN FORCE.

COUNTRIES.	DATES.	
	Treaties.	Orders in Council.
United States-Convention.....	12th July, 1889.....	21st March, 1890.
“                “.....	13th December, 1900.....	26th June, 1901.
“                “.....	12th April, 1905.....	11th February, 1907.
Uruguay.....	26th March, 1884.....	5th March, 1885.
“ Protocol.....	20th March, 1891.....	24th November, 1891.

NOTE.—The Orders in Council, which in every case contain the full text of the Treaty, are published in the *London Gazette*.

## APPENDIX B.

## ORDERS IN COUNCIL APPLYING THE FUGITIVE OFFENDERS ACT, 1881.

**Cyprus**..... The Cyprus Extradition Order in Council, 1881, section 42:—

“The Fugitive Offenders Act, 1881,” or so much thereof as is for the time being in force, and any enactment for the time being in force, amending or substituted for the same, are hereby extended to Cyprus with the following adaptations, namely:—

(a) In sections 2 and 6 of “The Fugitive Offenders Act, 1881,” the High Court of Justice, acting by the Judicial Commissioner, shall be deemed to be substituted for a judge of a superior court in a colony.

(b) In sections 3, 5, and 6 of the same Act, the High Commissioner shall be deemed to be substituted for the governor of a colony.

(*London Gazette*, 26th July, 1881.)

**Turkey; Egypt**..... Ottoman Order in Council, 1899, Article 52:—

52. “The Fugitive Offenders Act, 1881,” and “The Colonial Prisoners Removal Act, 1884,” shall apply to Egypt and to the Ottoman dominions other than Egypt as if those places were respectively British possessions and parts of His Majesty’s dominions.

Subject as follows:—

(a) As respects Egypt, Her Majesty’s Agent and Consul-General, and as respects the Ottoman dominions (other than Egypt), the Ambassador at Constantinople is hereby substituted for the Governor or Government of a British possession.

(b) The Supreme Court, or in Egypt, during the absence of a Judge of the Supreme Court, the Provincial Court at Alexandria is hereby substituted for a Superior Court of a British possession.

(c) The Supreme Court and each Provincial Court is substituted for a Magistrate of any part of Her Majesty’s dominions.

(d) For the purposes of Part II. of the said Act of 1881, and of this Article in relation thereto, the Ottoman dominions and Malta and Gibraltar shall be deemed to be one group of British possessions.

(*London Gazette*, 11th August, 1899.)

**China; Corea**..... China, Japan, and Corea Order in Council, 1884, section 8:—

“The Fugitive Offenders Act, 1881,” shall apply in relation to British subjects, to China, Japan, and Corea respectively, as if such countries were British possessions, and for the purposes of Part II of the said Act and of this Article, China, Japan, and Corea shall be deemed to be one group of British possessions, and Her Majesty’s Minister for China, Japan, or Corea (as the case may be) shall have the powers of a Governor or Superior Court of a British possession.

(*London Gazette*, 1st July, 1884.)

Repealed, as regards Japan, by the Order in Council of October 7, 1899.

The Act has been applied by Orders in Council to the several African Protectorates, with the following modifications:—

With respect to “The Fugitive Offenders Act, 1881”:

(a) So much of the 4th and 5th sections of the said Act as relates to sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a Magistrate to a fugitive, shall be excepted, and in lieu of such information, the person acting as the Magistrate shall inform the fugitive that in the British possession or Protectorate to which he may be conveyed he has the right to apply for a writ of *habeas corpus* or other like process.

**African Protectorates—**

- (a) *East Africa.* (b) *British Central Africa.*
- (c) *Uganda.* (d) *Somaliland.*
- (e) *Zanzibar.* (f) *West Africa.* (g) *South Africa.*

## APPENDIX B.—Continued.

**African Protectorates—Continued.**

(b) So much of the 6th section of the said Act as requires the expiration of fifteen days before issue of a warrant shall be excepted.

(c) The Consul-General shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the Governor of that possession.

The limits within which the Act applies, the manner in which territories are grouped for the purposes of Part II, of the Act, and the dates of the respective Orders in Council are given below.

## (a) East Africa.....

"This Order may be cited as 'The East Africa Order in Council, 1902.'

"The limits of this Order are the territories comprised in the "East Africa Protectorate, which includes the territories "bounded on the east and north-east by the Indian Ocean, the "Juba River, the south-western boundary of the Italian sphere, "on the north by the Abyssinian frontier, on the west by the "Uganda Protectorate, and on the south by the German sphere, "and includes all adjacent islands between the mouths of the "Rivers Juba and Umbo.

"The said territories are in this Order referred to as 'East "Africa' and 'the Protectorate.'

\* \* \* \* \*

"For the purposes of Part II. of the said Act, Uganda, Zanzi-bar, the East Africa Protectorate, and all British possessions "and Protectorates in Africa south of the Equator shall be "deemed to be one group of British possessions."

(*London Gazette*, 15th August, 1902.)

## (b) British Central Africa.....

"This Order may be cited as 'The British Central Africa "Order in Council, 1902.'

"The limits of this Order are the territories of Africa situate "to the west and south of Lake Nyassa and bounded by North-Eastern Rhodesia, German East Africa, and the Portuguese "territories.

"The said territories are in this Order referred to as 'British "Central Africa' and 'the Protectorate.'

\* \* \* \* \*

"For the purposes of Part II. of the said Act, Uganda, Zanzi-bar, the East Africa Protectorate, and all British possessions "and Protectorates in Africa south of the Equator shall be "deemed to be one group of British possessions."

(*London Gazette*, 15th August, 1902.)

## (c) Uganda.....

"This Order may be cited as 'The Uganda Order in Council, "1902.'

"The limits of this Order are the territories constituting the "Uganda Protectorate, that is to say:—

"(1) The Central Province, comprising the districts of "Elgon, Karamojo, Busoga, Bukedi, and Lotor;

"(2) The Rudolf Province, comprising the districts of "Turkwel, Turkana, and Dabossa;

"(3) The Nile Province, comprising the districts of Dodinga, "Bari, and Shuli;

"(4) The Western Province, comprising the districts of "Unyoro, Toro, and Achole; and

"(5) The Kingdom of Uganda, with the islands appertaining "thereto.

"The said territories are in this Order referred to as 'Uganda' "and 'the Protectorate.'

\* \* \* \* \*

"For the purposes of Part II. of the said Act, Uganda, Zanzi-bar, the East Africa Protectorate, and all British possessions "and Protectorates in Africa south of the Equator shall be "deemed to be one group of British possessions."

(*London Gazette*, 15th August, 1902.)

## (d) Somaliland.....

"This Order may be cited as 'The Somaliland Order in "Council, 1899.'

## APPENDIX B.—Continued.

## Somaliland—Continued

“The limits of this Order are the territories comprised in the Somaliland Protectorate, which includes the territories bounded on the north by the Gulf of Aden, on the east and south by the territories under the Protectorate of Italy, and on the west by the territories of the Emperor of Ethiopia and the French Protectorate of Jibuti.

\* \* \* \* \*

“For the purposes of Part II. of the said Act, the Protectorate, Aden, Zanzibar, the East Africa and Uganda Protectorates, and British India shall be deemed to be one group of British possessions.”

(*London Gazette*, 17th October, 1899.)

## (e) Zanzibar.....

“This Order may be cited as ‘The Zanzibar Order in Council, 1897.’

“The limits of this Order are the Islands of Zanzibar and Pemba, including the territorial waters thereof, and any islets within those waters, which islands and waters are in this Order (except when the context requires a different construction) included in the expression ‘Zanzibar.’

\* \* \* \* \*

“For the purposes of Part II. of the said Act, Zanzibar, the East Africa and Uganda Protectorates, British India, Mauritius, and all British Possessions and Protectorates in Africa south of the Equator shall be deemed to be one group of British Possessions.”

(*London Gazette*, 9th July, 1897.)

## (f) West Africa...

1. This Order may be cited as “The West African Possessions and Protectorates (Fugitive Offenders) Order in Council, 1902.”

2. Subject to the provisions of this Order “The Fugitive Offenders Act, 1881,” shall apply as if each of the territories named in the first schedule of this Order were a British possession.

3. In “The Fugitive Offenders Act, 1881,” as hereby applied to the territories named in Schedule 1 of this Order, and in this Order with reference to the said territories, unless the context otherwise requires, the expression “Governor” means the officer for the time being exercising the functions:—

(a) As regards the Gambia Protectorate, the Sierra Leone Protectorate, and the Lagos Protectorate, of Governor in the Gambia, Sierra Leone, and Lagos respectively.

(b) As regards the Northern Territories of the Gold Coast, of Chief Commissioner.

(c) As regards Northern Nigeria and Southern Nigeria, of High Commissioner of Northern Nigeria and Southern Nigeria respectively.

4. The jurisdiction under Part I. of “The Fugitive Offenders Act, 1881,” to hear a case and commit a fugitive to prison to await his return may be exercised in the territories named in Schedule 1 of this Order, by any person having in the said territories authority to issue a warrant for the apprehension of persons accused of crime, and to commit such persons for trial.

5. Part II. of “The Fugitive Offenders Act, 1881,” shall apply to the Colonies, possessions, and territories mentioned in Schedules 1 and 2 of this Order.

\* \* \* \* \*

*Schedule 1.*

The Gambia Protectorate

The Sierra Leone Protectorate.

The Lagos Protectorate.

The Northern Territories of the Gold Coast.

Northern Nigeria.

Southern Nigeria.

APPENDIX B.—*Continued.*

(f) West Africa—Con.

The Gambia.  
Sierra Leone.  
The Gold Coast.  
Ashanti.  
Lagos.

*Schedule 2.**(London Gazette, 13th June, 1902.)*

(g) South Africa....

The South African Order in Council, 1901:—

“2. In the Fugitive Offenders Act, 1881, as hereby applied to the territories named in Schedule 1 of this Order and in this Order with reference to the said territories, unless the context otherwise requires, the expression ‘Governor’ means the officer of the time being exercising the functions:—

“(a) As regards the Bechuanaland Protectorate, Southern Rhodesia, and Barotsiland, North Western Rhodesia, of High Commissioner of South Africa.

“(b) As regards the British Central Africa Protectorate and North Eastern Rhodesia, of Commissioner and Consul-General.

“3. The jurisdiction under Part I. of the Fugitive Offenders Act, 1881, to hear a case and commit a fugitive to prison to await his return may be exercised in the territories named in Schedule 1 of this Order by any person having in the said territories authority to issue a warrant for the apprehension of persons accused of crime and to commit such person for trial.”

\* \* \* \* \*

*Schedule 1.*

The Bechuanaland Protectorate.  
Southern Rhodesia.  
Barotsiland, North-Western Rhodesia.  
British Central Africa Protectorate.  
North-Eastern Rhodesia.  
Swaziland.\*

*(London Gazette, 13th August, 1901.)*

Morocco.....

The Morocco Order in Council, 1889, section 33:—

“The Fugitive Offenders Act, 1881,” and “The Colonial Prisoners Removal Act, 1884,” shall apply to all places to which this Order applies, as if such places were British possessions and part of His Majesty’s dominions, and to all persons (but those only) to whom this Order applies . . . and the consul-general shall, as regards any place within his jurisdiction, have, for the purposes of either of the said Acts, the powers of a governor or superior court of a British possession.

*(London Gazette, 13th December, 1889.)*

Siam.....

The Siam Order in Council, 1906, Article 74:—

74. “The Fugitive Offenders Act, 1881,” and “The Colonial Prisoners Removal Act, 1884,” shall apply to Siam, as if Siam were a British possession and part of His Majesty’s dominions.

Subject as follows:—

(a) The Minister is hereby substituted for the Governor or Government of a British possession, and

(b) The Court for Siam is hereby substituted for a Superior Court of a British possession.

(c) The Court for Siam and each District Court is substituted for a Magistrate of any part of His Majesty’s dominions.

(d) For the purposes of Part II. of the said Act of 1881, and of this Article in relation thereto, Siam and its dependencies and the Straits Settlements shall be deemed to be one group of British possessions.

*(London Gazette, 10th April, 1906.)*

\* This Order is applied to Swaziland by the amending Order of 1st June, 1907.

## APPENDIX B.—Continued.

**Inland Persia**..... Persia Order in Council, 1889, section 287:—

“The Fugitive Offenders Act, 1881,” shall apply to Persia as if Persia were a British possession, subject to the conditions, exceptions, and qualifications following:—

(1) The said Act shall apply only in the case of British subjects.

(2) The consul-general is for the purposes of the said Act substituted for the governor of a British possession, and for a superior court, or a judge thereof, in a British possession, and for a magistrate or justice of the peace in a British possession.

(3) So much of the 4th and 5th sections of the said Act as relates to the sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a magistrate to a fugitive, shall be excepted.

(4) So much of the 6th section of the said Act as relates to *habeas corpus*, and as requires the expiration of fifteen days before issue of a warrant shall be excepted.

(5) The consul-general shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the governor of that possession.

(*London Gazette*, 24th December, 1889.)

**Persian Coast and Persian Coast and Islands Order in Council, 1889, section 14:**—  
**Islands.**

“The Fugitive Offenders Act, 1881,” shall apply to the Persian Coast and Islands as if the same were a British possession, subject, so far as regards matters to be done in the Persian Coast and Islands, to the conditions, exceptions, and qualifications following:—

(i) The said Act shall apply only in the case of British subjects.

(ii) The consul-general is for the purposes of the said Act substituted for the governor of a British possession, and for a superior court, or a judge thereof, in a British possession, and for a magistrate or justice of the peace in a British possession.

(iii) So much of the 4th and 5th sections of the said Act as relates to the sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of the case, or to the information to be given by a magistrate to a fugitive, shall be excepted.

(iv) So much of the 6th section of the said Act as relates to *habeas corpus*, and as requires the expiration of fifteen days before issue of a warrant, shall be excepted.

(v) The said consul-general shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the governor of that possession.

(*London Gazette*, 24th December, 1889.)

**Brunei**..... Brunei Order in Council, 1901, Article 33:—

33. “The Fugitive Offenders Act, 1881,” and “The Colonial Prisoners Removal Act, 1884,” shall apply to Brunei as if it were part of His Majesty’s dominions, subject as follows:—

(a) The Consul is hereby substituted for the Governor or Government of a British possession;

(b) The Court is hereby substituted for a Superior Court, and for a Magistrate of a British possession;

(c) For the purposes of the said Act of 1881, and of this Article in relation thereto, the said territories and the Straits Settlements shall be deemed to be one group of British possessions.

(*London Gazette*, 30th July, 1901.)

APPENDIX B.—*Concluded.*

**Pacific Ocean and Islands.** Pacific Order in Council, 1893:—

The limits of the Order are the Pacific Ocean and Islands and places therein, exclusive of any place within the jurisdiction of the legislature of any British possession and any place for the time being within the jurisdiction or protectorate of any civilized power.

Article 85 applies “The Fugitive Offenders Act, 1881,” to the limits of the Order, subject to the provisions set out in that Article.

(*London Gazette*, 8th September, 1893.)

## APPENDIX C.

## EXTRADITION CRIMES.

Extradition Crimes.	Treaties* in which each Crime is Comprised.
<b>Extradition Act, 1870.</b>	
Murder, and attempt and conspiracy to murder.	<i>Murder.</i> —All Treaties.
	Netherlands.—“Murder including infanticide, or attempt or conspiracy to murder, including such crimes “when directed against the Sovereign, his heir, or any other “person whomsoever, provided that the crime is not of a “political character.”
	Peru and Roumania reserve the right of refusing to surrender a person charged with a crime punishable with death. Portugal will not surrender a person so charged.
	<i>Attempt to Murder.</i> —All Treaties.
	United States.—“Assault with intent to commit murder.”
	<i>Conspiracy to Murder.</i> —Argentine Republic, Belgium, Bolivia, Chile, Colombia, Cuba, Denmark, Ecuador, Italy, <sup>†</sup> Liberia, Mexico, Monaco, Netherlands, Nicaragua, Panama, Peru, Portugal, Roumania, Russia, San Marino, Servia.
Manslaughter.....	All Treaties.
	Italy. <sup>†</sup>
	United States.—“Manslaughter when voluntary.”
Counterfeiting and altering money, and uttering counterfeited or altered money	All Treaties.
	Some of them add, or substitute for “uttering,” the words “bringing into circulation.”
	Portugal.—“Money, either metallic or of any other kind, “representing the first named, or uttering counterfeit “money of any of those kinds.”
Forgery, counterfeiting, and altering and uttering what is forged, or counterfeited, or altered.	All Treaties.
	United States.—“Forgery and utterance of forged paper.”
	Brazil.—“Forgery or imitation, counterfeiting or falsification of any document or paper (&c.†), as well as the “intentional use or bringing into circulation of any papers “imitated, counterfeited, or falsified.”
	Austria, <sup>†</sup> Germany, <sup>†</sup> Norway, Sweden, <sup>†</sup> Switzerland, <sup>†</sup> Bolivia, Chile, Cuba, Nicaragua, Peru.—“Forgery, or “uttering what is forged.”
	Panama.—“Forgery or knowingly uttering what is “forged.”
Embezzlement and larceny.	All Treaties.
	Brazil.—“The purloining or embezzlement of money or “effects, public or private, by abuse of confidence.”
	Italy.—“Larceny or unlawful abstraction or appropriation.”
Obtaining money or goods by false pretences.	All Treaties.
	Brazil.—“Frauds or false or fraudulent practices to “obtain money or effects from another.”
	Italy.—“Obtaining money or goods by false pretences “(cheat or fraud).”
	Norway and Sweden.—“Obtaining money or goods by “false pretences, except as regards Norway, cases in which “the crime is not accompanied by aggravating circumstances “according to the law of that country.”
	Uruguay.—Add, “the quantity or value of which shall be “greater in amount than £200 sterling.”

\* The Treaty with Tonga is not included in this table. It comprises only the crimes of murder, attempt to murder, embezzlement, larceny, fraudulent bankruptcy, and forgery, and applies only to subjects of Tonga escaped to British Territory.

† In Treaties marked thus<sup>†</sup>, there is in the English text an *inclusive* reference to the definition of the crime in the foreign code.

## APPENDIX C.—Continued.

Extradition Crimes.	Treaties in which each Crime is Comprised.
<b>Extradition Act, 1870.</b>	All Treaties.
Crimes by bankrupts against bankruptcy law.	<p>Brazil.—“Bankruptcies subject to criminal prosecution according to the laws applicable thereunto.”</p> <p>Italy.—“Fraudulent bankruptcy.”</p>
Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any company made criminal by any Act ( <i>law</i> ) for the time being in force.	<p>Belgium, Denmark, Germany,† Norway, Sweden.—“Crimes by bankrupts against bankruptcy law.”</p> <p>Argentine Republic, Austria,† Bolivia, Chile, Colombia, Cuba, Ecuador, France, Guatemala, Hayti, Liberia, Luxemburg, Mexico, Monaco, Netherlands, Nicaragua, Panama, Peru, Portugal, Roumania, Russia, Salvador, San Marino, Servia, Spain, Switzerland, Uruguay.—“Crimes against bankruptcy law.”</p> <p>United States.—“Offences, if made criminal by the law of both countries, against bankruptcy law.”</p>
Rape.....	All Treaties.
Abduction.....	<p>Brazil.—“Malversation or fraud committed, &amp;c.”</p> <p>Italy.—“Fraud, abstraction, or unlawful appropriation by a bailee, banker, agent, factor, trustee, director, or member, or officer of any public or private company or house of commerce.”</p>
Child-stealing.....	<p>United States.—“Made criminal by the laws of both countries.”</p> <p>Cuba, Nicaragua, Panama, San Marino omit the words after “company.”</p>
Burglary and housebreaking.....	<p>Peru.—“Punishable with imprisonment for not less than one year.”</p>
Arson.....	All Treaties.
Robbery with violence.....	<p>Brazil.—“Rape by force or threats.”</p>
Threats by letter or otherwise with intent to extort.	All Treaties.
Crimes committed at sea:— (a) Piracy by the law of nations.	<p>All Treaties.</p> <p>Austria.—“Robbery with violence, or with menaces”</p> <p>Belgium.—“Robbery with violence (including intimidation).”</p> <p>United States.—“Robbery.”</p>
	All Treaties, except Brazil, United States, and Uruguay.
	Norway.—“Except cases in which this crime is not punishable by the laws of that country.”
	(a) All Treaties, except Austria, Germany, Luxemburg, Norway, Sweden, and Switzerland. (But see under <i>Murder</i> the provisions of the Treaties with Peru, Portugal and Roumania.)

†In Treaties marked thus †, there is in the English text an *inclusive* reference to the definition of the crime in the foreign code.

## APPENDIX C.—Continued.

Extradition Crimes.	Treaties in which each Crime is Comprised.
<b>Extradition Act, 1870.</b>	
Crimes committed at sea— <i>Con.</i>	France.—(a) Any act of depredation or violence by the crew of a British or French vessel against another British or French vessel, or by the crew of a foreign vessel, not provided with a regular commission, against British or French vessels, their crews or their cargoes.
	“(b) The fact by any person, being or not one of the crew of a vessel, giving her over to pirates.
	“(c) The fact by any person, being or not one of the crew of a vessel, of taking possession of such vessel by fraud or violence.”
	Italy.—“Piracy according to international law, when the pirate, a subject of either of the High Contracting Parties, has committed depredations on the coasts, or on the high seas, to the injury of citizens of the requiring party, or when, being a citizen of the requiring party, and having committed acts of piracy to the injury of a third state, he may be within the territory of the other party, without being subjected to trial.”
	United States.— <i>Piracy.</i> †
	Argentine Republic, Bolivia, Chile, Cuba, Nicaragua.—“Piracy, and other crimes or offences committed at sea against persons or things which, according to the laws of the High Contracting Parties, are extradition offences, and are punishable by more than one year's imprisonment.”
	Panama has the same form omitting the words after “offences.”
	(b) All Treaties, except Cuba, Luxemburg, Panama, Peru, and Switzerland.
	Austria, Brazil, Germany, Italy, Norway, and Sweden omit “or conspiring.”
	United States.—“Wrongfully sinking or destroying a vessel at sea, or attempting to do so.”
	(c) All Treaties, except Cuba, France, Luxemburg, Nicaragua, Panama, Peru, and Switzerland.
	United States.—Omit “to destroy life or.”
	(d) All Treaties, except Cuba, Luxemburg, Nicaragua, Panama, Peru, and Switzerland.
	Brazil, Netherlands and Norway omit “or conspiring to revolt.”
<b>EXTRADITION ACT, 1873.</b>	
Kidnapping and false imprisonment.	Argentine Republic, Austria, Belgium, Bolivia, Chile, Colombia, Cuba, France, Guatemala, Liberia, Luxemburg, Mexico, Monaco, Nicaragua, Panama, Portugal, Roumania, Russia, Salvador, San Marino, Servia, Spain, Uruguay.
	Switzerland and United States.— <i>Kidnapping</i> only.
	Hayti.— <i>False imprisonment</i> only.
	Netherlands.—“ <i>Kidnapping of minors and their false imprisonment.</i> ”

† “Piracy” in the Treaty of 1842 with the United States was held (*In re Tivnan*, 9 Cox, C.C. 522) to mean acts of piracy so constituted by municipal law, not piracy by the laws of nations. “Piracy by the law of nations” is included in the Convention with the United States of the 12th July, 1889.

## APPENDIX C.—Continued.

Extradition Crimes.	Treaties in which each Crime is Comprised.
<b>Extradition Act, 1873.</b>	
Kidnapping and false imprisonment— <i>Con.</i>	By a Protocol with the Roumanian Government of 21st March, 1893, extradition can be granted for this offence only when it has been committed by private individuals.
Perjury and subornation of perjury, whether under common or statute laws.	<i>Perjury and Subornation of Perjury.</i> —Argentine Republic, Austria, Belgium, Bolivia, Chile, Colombia, Cuba, France, Guatemala, Hayti, Liberia, Luxemburg, Mexico, Monaco, Netherlands, Nicaragua, Norway, Panama, Peru, Portugal, Roumania, Russia, Salvador, San Marino, Servia, Spain, Switzerland, United States.
Indictable offences under the Larceny Act, 1861 (24 and 25 Vict. c. 96), and amending or substituted Acts.	<i>Obtaining valuable securities by false pretences.</i> —Argentine Republic, Belgium, Bolivia, Chile, Colombia, Cuba, France, Guatemala, Liberia, Luxemburg, Mexico, Monaco, Netherlands, Nicaragua, Panama, Peru, Portugal, Roumania, Salvador, San Marino, Servia, Spain, Sweden, United States, Uruguay.
	Uruguay.—Add “the quantity or value of which shall be greater in amount than £200 sterling.”
	<i>Receiving any money, valuable security, or other property, knowing the same to have been stolen.</i> *—Argentine Republic, Belgium, Bolivia, Chile, Colombia, Cuba, France, Guatemala, Liberia, Mexico, Monaco, Netherlands, Nicaragua, Norway, Panama, Peru, Portugal, Roumania, Salvador, San Marino, Servia, Sweden, United States, Uruguay.
	<i>Ditto, embezzled.</i> —Belgium, France, Norway, Servia, San Marino, Sweden, United States.
	<i>Ditto, unlawfully obtained.</i> —Argentine Republic, Bolivia, Chile, Colombia, Cuba, France, Guatemala, Liberia, Luxemburg, Mexico, Monaco, Netherlands, Nicaragua, Panama, Peru, Portugal, Roumania, Salvador, San Marino, Servia, Spain, Uruguay.
	<i>Ditto, feloniously obtained.</i> —Belgium.
	<i>Ditto, fraudulently obtained.</i> —United States.
	Argentine Republic.—“The value of the money or property must exceed £200.”
	Uruguay.—“Receiving any money, valuable security, or other property, knowing the same to have been feloniously stolen or unlawfully obtained, the quantity or value of which shall not exceed £200 sterling.”
	<i>Malicious injury to property if such offence be indictable.</i> —Argentine Republic, Austria, Belgium, Bolivia, Chile, Colombia, Cuba, France, Guatemala, Hayti, Liberia, Luxemburg, Mexico, Monaco, Netherlands, Nicaragua, Panama, Peru, Portugal, Roumania, Russia, Salvador, San Marino, Servia, Spain, Sweden, Switzerland, Uruguay.
	Roumania, Servia.—“By explosives or otherwise.”
	Uruguay.—“Malicious injury to property, if such offence be indictable and punishable with one year’s imprisonment or more.”
Indictable offences under 24 and 25 Vict. c. 98, and amending or substituted Acts which are not included in the Extradition Act, 1870.	

\* In most of the Treaties in which “receiving” is not included in the list of offences, the extradition of persons guilty of this offence might be obtained on the charge of being accessories to larceny, &c., after the fact.

## APPENDIX C.—Continued.

Extradition Crimes.	Treaties in which each Crime is Comprised.
<b>Extradition Act, 1873.</b>	
Indictable offences under 24 and 25 Vict. c. 99, and amending or substituted Acts.	<p><i>Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for the counterfeiting of coin of the realm.</i>—Argentine Republic, Belgium, Bolivia, Chile, Colombia, Cuba, Guatemala, Liberia, Luxemburg, Mexico, Monaco, Nicaragua, Panama, Portugal, Roumania, Salvador, San Marino, Servia, Spain, Sweden, Uruguay.</p>
	<p><i>Peru.</i>—“Making or having possession of instruments “adapted or intended for the counterfeiting”, of the coin of “the realm or for the forgery of documents.”</p>
	<p><i>Servia.</i>—“without lawful authority” omitted.</p>
Indictable offences under 24 and 25 Vict. c. 100, and amending or substituted Acts.	<p><i>Abandoning children; exposing or unlawfully detaining them.</i>—Belgium, France, Guatemala, Liberia, Luxemburg, Monaco, Nicaragua, Panama, Peru, Portugal, Roumania, Salvador, San Marino, Servia, Spain, Uruguay.</p>
	<p><i>Any malicious act done with intent to endanger the safety of any person in a railway train.</i>—Argentine Republic, Belgium, Colombia, France, Guatemala, Liberia, Luxemburg, Mexico, Monaco, Portugal, Roumania, Salvador, San Marino, Servia, Spain, Uruguay.</p>
	<p><i>Bolivia, Chilé, Colombia, Cuba, Mexico, Nicaragua, Panama, Peru, Sweden.</i>—“Any person travelling or being “upon a railway.”</p>
	<p><i>Netherlands.</i>—“The safety of a railway train.”</p>
	<p><i>United States.</i>—“Wilful and unlawful destruction or “obstruction of railroads which endangers human life.”</p>
	<p><i>Wounding or inflicting grievous bodily harm.</i>—Argentine Republic, Colombia, France, Guatemala, Liberia, Luxemburg, Mexico, Monaco, Peru, Portugal, Roumania, Russia, Salvador, Spain, Uruguay.</p>
	<p><i>Malicious wounding, or inflicting grievous bodily harm.</i>—Belgium, Bolivia, Chile, Colombia, Cuba, Mexico, Netherlands, Nicaragua, Norway, Panama, Russia, San Marino, Servia, Sweden.</p>
	<p><i>Uruguay.</i>—Add “when such acts cause permanent “disease or incapacity for personal labour, or the absolute “loss or privation of a member or organ.”</p>
	<p><i>Assault occasioning actual bodily harm.</i>—Argentine Republic, Belgium, Bolivia, Chile, Colombia, Cuba, Liberia, Mexico, Monaco, Netherlands, Nicaragua, Panama, Peru, Portugal, Roumania, San Marino, Servia.</p>
	<p><i>Assaulting a magistrate or peace or public officer.</i>—France, Guatemala, Luxemburg, Salvador, Spain.</p>
	<p><i>Aggravated or indecent assault.</i>—Guatemala, Luxemburg, Salvador, Spain, Uruguay.</p>
	<p><i>Indecent assault.</i>—Argentine Republic, Belgium, Bolivia, Chile, Colombia, Cuba, France, Liberia, Mexico, Monaco, Netherlands, Nicaragua, Panama, Peru, Portugal, Roumania, Russia, San Marino, Servia, Spain, Sweden.</p>
	<p><i>Acts of indecency, even without violence, upon the person of a girl under 12 years of age.</i>—France.</p>
	<p><i>Indecent assault without violence upon children of either sex under 13 years of age.</i>—Belgium, Monaco, San Marino.</p>
	<p><i>Carnal knowledge of a girl under the age of 10 years. Carnal knowledge of a girl above the age of 10 years and under the age of 12 years. Indecent assault upon any female or any attempt to have carnal knowledge of a girl under the age of 12 years.</i>—Guatemala, Luxemburg, Salvador, Uruguay.</p>

## APPENDIX C.—Continued.

Extradition Crimes.	Treaties in which each Crime is Comprised.
<b>Extradition Act, 1873.</b>	
Indictable offences under 24 and 25 Vict. c. 100, and amending or substituted Acts—Concluded.	<p><i>Unlawful carnal knowledge, or any attempt to have unlawful carnal knowledge of a girl under the age of 16 years.</i>—Argentine Republic, Belgium, Bolivia, Colombia, Liberia, Mexico, Monaco, Netherlands, Norway, Portugal, Russia, Spain.</p>
	<p>Belgium, Panama, San Marino.—Add “so far as such Acts are punishable by the law of the State upon which the demand is made.”</p>
	<p>Sweden omits “attempt” and puts the limit of age at 15 years.</p>
	<p><i>Ditto, under the age of 14 years.</i>—Chile, Roumania, Servia.</p>
	<p>Argentine Republic, Monaco.—“The evidence must show a crime within the law of those countries.”</p>
	<p>Mexico and Russia.—Omit “unlawful.”</p>
	<p>Chile, Colombia, and Mexico.—Add “If the evidence produced justifies committal for those crimes according to the laws of both the Contracting Parties.”</p>
	<p><i>Ditto, under the age of puberty according to the laws of both countries.</i>—Cuba, Nicaragua.</p>
	<p><i>Bigamy.</i>—Argentine Republic, Bolivia, Belgium, Chile, Colombia, Cuba, France, Guatemala, Luxemburg, Mexico, Nicaragua, Panama, Peru, Portugal, Salvador, Spain, Sweden, Uruguay.</p>
	<p><i>Administering drugs or using instruments with intent to procure the miscarriage of women.</i>—Argentine Republic, Belgium, Bolivia, Chile, Colombia, Cuba, Guatemala, Liberia, Luxemburg, Mexico, Monaco, Netherlands, Nicaragua, Panama, Portugal, Russia, Salvador, San Marino, Spain, Uruguay.</p>
	<p>Sweden adds after “instruments” “apt to procure the miscarriage of women.”</p>
	<p><i>Procuring or attempting to procure abortion.</i>—Peru.</p>
	<p><i>Procuring miscarriage.</i>—Roumania, Servia.</p>
	<p><i>Procuring abortion.</i>—United States.</p>
	<p><i>Abortion.</i>—France.</p>
Any indictable offence under the laws for the time being in force in relation to bankruptcy.	<p>Above, under the head “Crimes by bankrupts against bankruptcy law,” it will be seen that 29 of the Treaties extend to all “crimes against bankruptcy law” (whether committed by a bankrupt or not.)</p>
36 AND 37 VICT. c. 88. s. 27.	
Offences against the Slave Trade Act, 1873, and enactments, with which that Act is construed as one, or otherwise in connection with the Slave Trade.	<p><i>Dealing in slaves in such manner as to constitute a criminal offence against the laws of both states.</i>—Argentine Republic, Bolivia, Chile, Colombia, Cuba, France, Guatemala, Liberia, Mexico, Monaco, Netherlands, Nicaragua, Panama, Peru, Portugal, Russia, Salvador, San Marino, Spain, Uruguay.</p>
	<p><i>Offences in connection with the slave trade punishable by the laws of both states.</i>—Belgium.</p>
	<p><i>Crimes and offences against the laws of both countries for the suppression of slavery and slave trading.</i>—United States.</p>
	<p><i>Dealing in slaves.</i>—Roumania, Servia.</p>
<b>Extradition Act, 1906.</b>	
Bribery . . . . .	<p><i>Bribery, defined to be the offering, giving, or receiving of bribes made criminal by the law of both countries.</i>—United States.</p>

APPENDIX C.—*Concluded.*

Special Provisions.	Treaties in which Special Provisions occur.
Treaties having a clause including participation in any of the crimes in the list, provided such participation be punishable by the laws of both parties.	All Treaties, except Denmark and Ecuador. In Italy it is limited to "accomplices <i>before</i> the fact."
Treaties having a clause expressly restricting surrender to crimes punishable by the law of both parties;	Belgium.
or by the laws of the surrendering party.	Austria, Denmark, Ecuador.
Treaties having a clause providing for optional surrender in the case of any other crime for which by the laws of both parties extradition can be granted.	Argentine Republic, Bolivia, Chile, Colombia, Cuba, Mexico, Monaco, Netherlands, Nicaragua, Norway, Panama, Portugal, Russia, San Marino. In Peru this clause is limited to offences which by the law of both parties are extradition offences and punishable by not less than one year's imprisonment.
Treaties having a clause excluding extradition in cases when according to the laws of either country the maximum punishment for the offence is less than one year.	Argentine Republic, Bolivia, Chile, Cuba, Nicaragua.

## APPENDIX D.

### PROVISIONS OF THE EXTRADITION TREATIES AS TO THE DOCUMENTS TO BE SENT IN SUPPORT OF A DEMAND BY THE ENGLISH GOVERNMENT FOR THE EXTRADITION OF AN ACCUSED PERSON.

**Argentine**

**Republic.** Articles VIII and XI. Same terms as in German Treaty (below).

**Austria**..... Article IX. To the requisition for the surrender of an accused person there must be attached a warrant issued by the competent authorities of the State which demands extradition, and such proofs as would, according to the laws of the place where the accused was found, justify his arrest if the crime had been committed there.

Article XII. The extradition shall take place . . . only if the evidence be found sufficient, according to the laws of the State applied to, to justify the committal of the prisoner for trial in case the crime had been committed in the territory of the said State.

**Belgium**.....

Article III. The requisition for the surrender shall be . . . accompanied by a warrant of arrest or other equivalent judicial document issued by a judge or magistrate duly authorized to take cognizance of the acts charged against the accused in Great Britain, together with duly authenticated depositions or statements taken upon oath or upon solemn affirmation before such judge or magistrate, clearly setting forth the said acts and containing a description of the person claimed and any other particulars which may serve to identify him.

**Bolivia**.....

Articles VIII and XI. Same terms as in German Treaty (below).

**Brazil**.....

Article IX. A requisition for extradition . . . must be accompanied by the warrant of arrest issued by the competent authority of the State applying for it, and by such evidence as, according to the laws of the place where the accused is found, would justify the arrest if the crime was there committed.

Article XI. The extradition shall . . . only be carried out when the evidence has been found sufficient, according to the laws of the country applied to, for subjecting the prisoner to trial if the crime has been there committed.

**Chile**.....

Articles VIII and XI. Same terms as in German Treaty.

**Colombia**.....

Articles VIII and XI. Same terms as in German Treaty.

**Cuba**.....

Articles VIII and X. Same terms as in German Treaty.

**Denmark**.....

Article III. The requisition for the surrender shall be . . . accompanied by (1) a warrant for the arrest of the accused, issued by a judge or magistrate duly authorized to take cognizance of the acts charged against him in Great Britain; (2) duly authenticated depositions or statements taken on oath before such judge or magistrate, clearly setting forth the acts on account of which the fugitive is demanded; and (3) a description of the person claimed, and any other particulars which may serve to identify him.

APPENDIX D.—*Continued.*

- Ecuador**..... Article III. The requisition for the surrender shall be . . . accompanied by a warrant for the arrest of the accused, issued by a judge or magistrate duly authorized to take cognizance of the acts charged against him in Great Britain, together with duly authenticated depositions or statements taken on oath before such judge or magistrate, clearly setting forth the said acts, and a description of the person claimed, and any other particulars which may serve to identify him. . . . If the evidence to be produced shall be such as to justify, according to the laws of Ecuador, the committal for trial of the prisoner, if the crime of which he is accused had been committed in Ecuador, the police magistrate shall commit him, etc.
- France**..... Article VI. The ambassador . . . shall send . . . in support of each demand for extradition an authenticated and duly legalized copy . . . of a warrant of arrest against a person accused, clearly setting forth the nature of the crime or offence on account of which the fugitive is being proceeded against. The judicial document thus produced shall be accompanied by a description of the person claimed, and by any other information which may serve to identify him.
- Germany**..... Article VIII. The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.
- Article X. The extradition shall take place . . . only if the evidence produced be found sufficient, according to the laws of State applied to, to justify the committal of the prisoner for trial in case the crime had been committed in the territory of the said State.
- Guatemala**..... Articles VIII and XI. Same terms as in German Treaty.
- Hayti**..... Articles VIII and X. Same terms as in German Treaty.
- Italy**..... Articles IX and XIII. Same terms as in German Treaty.
- Liberia**..... Article VII. Same terms as in German Treaty.
- Luxemburg**..... Article VII. Same terms as in Article VIII of the German Treaty.
- Article IX. The surrender shall take place . . . only if the evidence produced be found sufficient according to the laws of the State applied to.
- Mexico**..... Articles VIII and XI. Same terms as in German Treaty.
- \*Monaco**..... Articles VIII and XII. Same terms as in German Treaty.
- Netherlands**..... Articles VIII and XIII. Same terms as in German Treaty.
- Norway**..... Articles VIII and IX. Same terms as in German Treaty.
- Nicaragua**..... Articles VIII and X. Same terms as in German Treaty.
- Panama**..... Articles VIII and XI. Same terms as in German Treaty.

\* The Treaty with Monaco requires that all documents shall be accompanied by a French translation (Article XIX.).

APPENDIX D.—*Concluded.*

- Peru**..... Articles VIII and XI. Same terms as in German Treaty, with the following addition:—"Also in case of extradition being demanded by Great Britain for a crime which is an offence against some Statute, a copy of the said Statute shall be sent; and if for a crime at common law only, an extract from some text book generally recognized as authoritative may be sent, as indicating the punishment applicable to the offence giving rise to the requisition.
- Portugal**..... Articles VIII and XII. Same terms as in German Treaty.
- Roumania**..... Articles VIII and XII. Same terms as in German Treaty.
- Russia**..... Articles VIII and XII. Same terms as in German Treaty.
- Salvador**..... Articles VIII and XI. Same terms as in German Treaty.
- San Marino**..... Articles VIII and XII. Same terms as in German Treaty.
- Servia**..... Articles VIII and XII. Same terms as in German Treaty.
- Spain**..... Article V. The diplomatic representative of Great Britain will send . . . with the demand for extradition, an authenticated and legalized copy . . . of the warrant of arrest against the person accused, clearly showing the crime or offence for which proceedings are taken against the fugitive. This judicial document shall be accompanied, if possible, by a description of the person claimed, and any other information or particulars that may serve to identify him.
- Sweden**..... Articles VIII and IX. Same terms as in German Treaty.
- Switzerland**..... Article VI. The requisition for the extradition of an accused person must be accompanied by an authentic copy of the warrant of arrest issued by a competent official or magistrate, clearly setting forth the crime or offence of which he is accused, together with a properly legalized information setting forth the facts and evidence upon which the warrant was granted.  
The requisition must also be accompanied by a description of the person claimed, and, if it be possible, by other information and particulars which may serve to identify him.
- United States**..... Provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed.
- Uruguay**..... Article VI. The diplomatic representative . . . shall address . . . with the demand for extradition, an authentic and legalized copy . . . of the mandate of arrest issued by competent authority, or other documents of the same legal force, against the accused person, setting forth clearly the crime or offence on account of which proceedings are being taken against the fugitive. These judicial documents shall be accompanied, if possible, by a description of the person claimed, and by any other information or intelligence which may serve to identify such person.

## APPENDIX E.

## FORM OF INDEMNITY.

WHEREAS, on an information laid by me, the undersigned, a Warrant has been granted by.....  
a Magistrate of the.....of.....  
for the arrest of.....on a charge  
of.....

AND WHEREAS there is reason to believe that the said .....has quitted the United Kingdom and is in or on the way to a foreign state or British possession.

AND WHEREAS, at my request the Secretary of State for the Home Department, on behalf of Her Majesty's Government, has agreed, on the terms and conditions herein-after stated, to take the necessary steps with a view to obtain the extradition of the said.....or his return under the Fugitive Offenders Act, as the case may be.

Now I, the undersigned, do hereby agree and undertake, for myself, my executors, administrators, and assigns, to pay on demand to the said Secretary of State, or to the Secretary of State for the Home Department for the time being, or to any person duly authorized to act on behalf of the said Secretary of State, all expenses incurred by His Majesty's Government, or any person acting on behalf of His Majesty's Government, in taking steps to obtain the extradition or return of the said .....and in obtaining and carrying out such extradition or return, and in conveying the said.....to England and otherwise in pursuance of the said Warrant.

AND I further agree and undertake to indemnify the Secretary of State for the Home Department for the time being against any expenses to which he or any person acting on his behalf may be put, and against any compensation or damages paid by or on behalf of the said Secretary of State in his discretion, or in consequence of any legal proceedings in the event of

the unlawful arrest of any person erroneously supposed to be  
the said.....if in the opinion of  
the said Secretary of State such unlawful arrest is caused by  
imperfect or inaccurate information or description given by me.

Witness my hand this.....day of.....19....

.....

*Address*.....

Signed by the said.....  
in the presence of.....  
*Address*.....

## APPENDIX F.

## FORMS IN USE AT BOW STREET.

1. FORM OF INFORMATION MADE IN SUPPORT OF APPLICATION  
FOR ISSUE OF PROVISIONAL WARRANT.

Metropolitan }      The information of.....  
 Police District. } of.....

To wit.      taken on oath this.....day of.....  
 in the year of Our Lord one thousand nine hundred and.....  
 at the Bow Street Police Court in the County of London, and  
 within the Metropolitan Police District before me, the under-  
 signed, one of the Magistrates of the Police Courts of the  
 Metropolis, sitting at the Police Court aforesaid.

Who saith that.....  
 late of.....is suspected and  
 accused (or convicted) of the commission of the crime of  
 .....  
 within the jurisdiction of.....  
 and now suspected of being in the United Kingdom. I make  
 this application on behalf of the.....  
 Government.

I produce.....  
 I am informed and verily believe that a Warrant.....  
 .....has been issued in.....  
 for the arrest of the accused; that the said Government will  
 demand h..... extradition in due course, and that there are  
 reasonable grounds for supposing the accused may escape  
 during the time necessary to present the diplomatic requisition  
 for h..... surrender, and I therefore pray that a provisional  
 Warrant may issue under the provisions of 33 & 34 Vict., c.  
 52, s. 8.

Sworn before me, the day and }  
 year first above-mentioned, at }  
 the Police Court aforesaid. }

## 2. FORM OF AUTHENTICATION BY MAGISTRATE.

Metropolitan  
Police District.  
To wit.

I, the undersigned, one of the Magistrates of the Police Courts of the Metropolis, sitting at the Bow Street Police Court, hereby certify that the written and printed matter contained in the foregoing (20) pages of paper is a true copy of the information of A.B., and of the depositions of (A.B.), C.D., E.F. in support thereof, laid and sworn before me (or R.M., Esquire, one of the Magistrates of the Police Courts of the Metropolis, sitting at the Police Court aforesaid) on the..... day of....., and of the Exhibits thereto marked .....respectively, and of the Warrant issued by me (or the said R.M.) thereon, for the apprehension of.....

.....  
Given under my hand and seal at the Police Court aforesaid this.....day of.....

A. R.

*One of the Magistrates of the Police  
Courts of the Metropolis.*

[L.S.]

## APPENDIX G.

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 MEMORANDA AS TO PROCEDURE IN EXTRADITION CASES IN THE  
 UNITED STATES.

(1)

Foreign Office,

April 19th, 1887.

SIR,—

I am directed by the Secretary of State for Foreign Affairs to transmit to you, to be laid before Mr. Secretary Matthews, a copy of a Despatch from Her Majesty's Minister at Washington enclosing a copy of a minute which he has drawn up of the procedure in Extradition cases which now obtains in the United States.

I am, etc.,

(Signed) J. PAUNCEFOTE.

The Under Secretary of State,  
 Home Office.

---

## MINUTE.

Procedure which at present obtains in Extradition cases under Article X of the Treaty of 1842 and Act of Congress of 1882:—

I. The demand for Extradition is made under Article X of the Treaty of 1842.

II. The reply thereto states that when the necessary forms of law have been complied with, the usual warrant of surrender will be issued.

III. No warrant for the preliminary arrest of a fugitive criminal is issued by the Secretary of State.

IV. The application for arrest is made directly to the Commissioner, or other judicial officer in whom the function of arrest

and examination is specifically vested, by the Consular Officer in whose consular jurisdiction the fugitive criminal may be found, at the instigation of Her Majesty's Representative, and upon affidavit of the Consul of his identity.

V. The depositions and warrants duly authenticated are then submitted to the judicial authority or Commissioner, who takes cognizance of the case under the Treaty and Act of Congress.

VI. If held for Extradition thereunder, the papers and certificates are submitted to the Secretary of State.

VII. If the Commissioner's decision in favour of Extradition is approved by the Secretary of State, the warrant of surrender is issued.

VIII. The warrant of surrender is sent to Her Majesty's Representative, who authorizes the Consular Officer, or such person as he may designate, to receive the fugitive criminal.

#### OBSERVATIONS.

The demand for Extradition need not necessarily be made before the case is sent to the Secretary of State by the Commissioner, for it is only when he is satisfied that the forms of law have been complied with that the warrant of surrender can be issued.

It is when the case comes before the Commissioner that the defect in the legal procedure is seen to allow of the escape of criminals. To secure the preliminary arrest, it is only necessary for Her Majesty's Representative to instruct the Consular officer to make the demand pending the arrival of the necessary papers, and that the Consul should have means of identifying the criminal. In places where there is no Consular officer, a difficulty would undoubtedly arise in finding some person who could be authorized to act in the case, and it would be advisable therefore that an officer should be sent out who could be authorized by Her Majesty's Representative to make the demand for the arrest, and to identify the fugitive. It is essential therefore for the preliminary arrest, that the Consular officer or person authorized to make the demand should have the means of identifying the fugitive, in order to be enabled to make the necessary affidavit before the Commissioner.

(2)

Sir Julian Pauncefote presents his compliments to Sir A. F. O. Liddell, and begs to enclose for his information an extract from a letter from Messrs. Marbury, Counsel to Her Majesty's Consulate-General at New York, concerning the particulars required by the United States Courts when a request for Extradition for the crime of forgery is transmitted by telegraph.

Foreign Office, July 24, 1884.

(EXTRACT.)

It is of prime importance, where a person is apprehended upon a telegraphic despatch, to have as far as possible complete particulars of the character of the offence committed, to secure his detention until the depositions and documentary evidence shall be received. In cases of forgery, the despatch should contain a description of the instrument claimed to be forged, date, amount, if draft or bill, upon whom drawn, name of payee, place of utterance, name forged or character of forgery, and the person defrauded, or as much of these as can be furnished, and more to be supplied as soon as obtained. Where adequate particulars are contained in the despatch, which is the foundation for the complaint, there will be no difficulty in having the accused remanded until the arrival of the papers.

A later opinion on the same point is contained in the following extract from a letter by Mr. Charles Fox, Legal adviser of H.M. Consul General at New York, in 1897:—

March 24th, 1897.

"DEAR MR. SANDERSON,

My answer to your question, 'What facts are necessary to be stated in the complaint, before the Magistrate, on application for a warrant, in a proceeding for the extradition of a fugitive from the United States?' is as follows:—

The cases as to what will constitute a sufficient complaint in extradition proceedings before the Courts, on Review, are very few, and in most of these cases the complaints were very full and complete in detail as to the facts alleged to constitute the crime; so it is difficult to state how meagre a complaint could be, in a recital of the facts tending to show a Treaty

offence, and be held sufficient. . . . . There is no doubt in my mind that any complaint stating facts making the crime, that would be sufficient as to a local offence of the same character committed within a State where the fugitive was found, would be held sufficient in extradition proceedings.

\* \* \* \* \*

The information for a complaint should comprise the following:—

1. Name of accused.
2. Offence, stating in detail the facts, that it can be seen that a Treaty offence has been committed.
3. Time when, and place where, offence committed.
4. Persons against whom offence committed.

The above I consider essential to a perfect complaint. . . .”

(3)

#### AUTHENTICATION OF PAPERS.

*Act of Congress “Regulating Fees and Practice in Extradition Cases,” of August, 1882.*

Section 5.—That in all cases where any depositions, warrants or other papers, or copies thereof, shall be offered in evidence upon the hearing of any Extradition Case under title sixty-six of the Revised Statutes of the United States, such depositions, warrants, and other papers, or the copies thereof, shall be received and admitted as evidence on such hearing for all the purposes of such hearing, if they shall be properly and legally authenticated, so as to entitle them to be received for similar purposes by the tribunals of the foreign country from which the accused party shall have escaped; and the certificate of the principal diplomatic or consular officer of the United States resident in such foreign country shall be proof that any deposition, warrant, or other paper, or copies thereof, so offered are authenticated in the manner required by this Act.

## FORM OF HOME OFFICE CERTIFICATE (1889.)

In forwarding the annexed papers, to be used in support of an application for the surrender from the United States of ..... charged with the crime of ..... committed in Great Britain, I hereby certify that, to the best of my knowledge and belief, the signatures ("A.B.") on the Warrant of Arrest, and on the information and depositions on which the Warrant was granted, are the signatures of ("A.B."), one of Her Majesty's Justices of the Peace for the (.....), having authority to issue and receive the same, and I further certify that such documents so signed by a magistrate having jurisdiction in the place where the same were issued and taken, and authenticated by a Minister of State, and sealed with his official seal, would be received in evidence for similar purposes by the tribunals of Great Britain.

(Signed) (.....)

*Under Secretary of State  
for the Home Department.*

[L.S.]

*Whitehall,*

(.....).



U.S. State Dept. 2

## MEMORANDUM RELATIVE TO THE EXTRADITION OF FUGITIVES FROM THE UNITED STATES IN BRITISH JURISDICTION.

DEPARTMENT OF STATE,

*Washington, February, 1943,*

Where application is made for a requisition for the surrender of a fugitive from the justice of the United States in British jurisdiction, it must be made to appear—

1. That one of the offenses enumerated in the treaties between the United States and Great Britain has been committed within the jurisdiction of the United States or of some one of the States or Territories.
2. That the person charged with the offense has sought an asylum or been found within the British dominions.

All applications for requisitions should be addressed to the Secretary of State, and forwarded to the Department of State, accompanied with the necessary papers, as herein stated, and must furnish the full name of the person proposed for designation by the President to receive the prisoner and convey him to the United States. When the offense is within the jurisdiction of the State courts, the application must come from the governor of the State. When the offense is against the United States, the application must come from the Attorney-General or the proper executive department.

It is stipulated in the treaties with Great Britain that extradition shall be granted only on such evidence of criminality as, according to the laws of the place where the fugitive or person charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had there been committed.

It is admissible as constituting such evidence to produce a properly certified copy of an indictment found against the fugitive by a grand jury or of any information made before an examining magistrate, accompanied by one or more depositions setting forth as fully as possible the circumstances of the crime. An indictment alone has been held to be insufficient.

By the fourteenth section of the English extradition act of 1870, "depositions or statements on oath, taken in a foreign state, and copies of such original depositions or statements, and foreign certificates of, or judicial documents stating the fact of conviction,

may, if duly authenticated, be received in evidence of proceedings under this act."

The fifteenth section of the same act provides as follows : "Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of, or judicial documents stating the fact of a conviction, shall be deemed duly authenticated for the purposes of this act if authenticated in manner provided for the time being by law, or authenticated as follows : (1) If the warrant purports to be signed by a judge, magistrate, or officer of the foreign state where the same was issued; (2) if the depositions or statements or the copies thereof purport to be certified under the hand of a judge, magistrate, or officer of the foreign state where the same were taken to be the original depositions or statements, or to be true copies thereof, as the case may require; and (3) if the certificate of, or judicial documents stating the fact of conviction purport to be certified by a judge, magistrate, or officer of the foreign state where the conviction took place; and if in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be) are authenticated by the oath of some witness or by being sealed with the official seal of the minister of justice, or some other minister of state; and all courts of justice, justices and magistrates, shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof."

If the fugitive be charged with the violation of a law of a State or Territory, his delivery will be required to be made to the authorities of such State or Territory.

If the offense charged be a violation of a law of the United States (such as piracy, murder on board of vessels of the United States, or in arsenals or dockyards, etc.), the delivery will be required to be made to the officers or authorities of the United States.

Where the requisition is made for an offense against the laws of a State or Territory, the expenses attending the apprehension and delivery of the fugitive must be borne by such State or Territory. Expenses of extradition are defrayed by the United States only where the offense is against its own laws.

#### PROVISIONAL ARREST.

Applications, both by telegraph and by letter, are frequently made to this Department for its intervention to obtain the arrest and provisional detention of fugitives from justice in England, Scotland, or Ireland in advance of the presentation of the formal proofs upon which a demand for their extradition may be based.

In such cases the only manner in which the Department can intervene is by informing the ambassador of the United States in London of the facts and instructing him to take the necessary measures. This the ambassador does by authorizing some one connected with the embassy to make complaint on oath before a magistrate, in accordance with the requirements of the British extradition act of 1870. The form of this complaint is hereto annexed as appendix 2. Attention is invited to its provisions, and especially to the statement deponent is required to make that he is informed and believes that a warrant has been issued in the foreign country for the arrest of the accused. This Department, when requested to intervene in such a case, should always be enabled to inform the ambassador that such a warrant has been issued, in order that the complaint before the British magistrate may be made in due form and without delay.

#### APPENDIX 1.

The tenth article of the treaty between the United States and Great Britain, concluded August 9, 1842, provides for the surrender of criminals for (1) murder, (2) assault with intent to commit murder, (3) piracy, (4) arson, (5) robbery, (6) forgery, (7) the utterance of forged paper.

The convention concluded July 12, 1889, provides for extradition for the following additional offenses:

1. Manslaughter, when voluntary.
2. Counterfeiting or altering money; uttering or bringing into circulation counterfeit or altered money.
3. Embezzlement; larceny; receiving any money, valuable security, or other property, knowing the same to have been embezzled, stolen, or fraudulently obtained.
4. Fraud by a bailee, banker, agent, factor, trustee, or director or member or officer of any company, made criminal by the laws of both countries.
5. Perjury, or subornation of perjury.
6. Rape; abduction; child-stealing; kidnapping.
7. Burglary; house-breaking or shop-breaking.
8. Piracy by the law of nations.
9. Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas, against the authority of the master; wrongfully sinking or destroying a vessel at sea, or attempting to do so; assaults on board a ship on the high seas, with intent to do grievous bodily harm.
10. Crimes and offenses against the laws of both countries for the suppression of slavery and slave-trading.

Extradition is also to take place for participation in any of the crimes mentioned in this convention or in the aforesaid tenth article, provided such participation be punishable by the laws of both countries.

By the seventh article of the convention of 1889, it is stipulated as follows:

"The provisions of the said tenth article (of the treaty of 1842) and of this convention shall apply to persons convicted of the crimes therein respectively named and specified whose sentence therefor shall not have been executed."

The eighth article of the convention of 1889 is as follows: "The present convention shall not apply to any of the crimes herein specified which shall have been committed, or to any conviction which shall have been pronounced, prior to the date at which the convention shall come into force."

The ninth article provides that the convention "shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the high contracting parties." The convention was proclaimed both in the United States and in Great Britain March 25, 1890, and thus came into force in both countries April 4, 1890.

The treaty concluded December 13, 1900, provides for extradition for the following additional offenses:

11. Obtaining money, valuable securities, or other property by false pretenses.
12. Willful and unlawful destruction or obstruction of railroads which endangers human life.

13. Procuring abortion.

The treaty concluded April 12, 1905, provides for extradition for the following additional offenses:

14. Bribery, defined to be the offering, giving or receiving of bribes made criminal by the laws of both countries.
15. Offenses, if made criminal by the laws of both countries, against the bankruptcy law.

## APPENDIX 2.

*(Form of information used in obtaining provisional warrants of arrest in the United Kingdom of Great Britain and Ireland.)*

*Metropolitan Police District, to wit.*

The information of \_\_\_\_\_, of \_\_\_\_\_, taken on oath this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand eight hundred and \_\_\_\_\_, at the Bow Street Police Court, in the county of Middlesex, and within the Metropolitan police district, before me, the undersigned, one of the magistrates of the police courts of the metropolis, sitting at the police court aforesaid, who saith that \_\_\_\_\_, late of \_\_\_\_\_, is accused [or convicted] of the commission of the crime of \_\_\_\_\_ within the jurisdiction of \_\_\_\_\_, and now suspected of being in the United Kingdom. I make this application on behalf of the \_\_\_\_\_ Government.

I produce \_\_\_\_\_.

I am informed and verily believe that a warrant \_\_\_\_\_ has been issued in \_\_\_\_\_ for the arrest of the accused; that the said Government will demand his extradition in due course, and that there are reasonable grounds for supposing the accused may escape during the time necessary to present the diplomatic requisition for his surrender, and I therefore pray that a provisional warrant may issue under the provisions of 33 and 34 V., c. 52, s. 8.

Sworn before me, the day and year first above mentioned, at the police court aforesaid.

Extradition Forms L. 12. — INFORMATION.
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## PROVISIONAL DETENTION OF FUGITIVES FROM JUSTICE IN GREAT BRITAIN.

DEPARTMENT OF STATE,  
*Washington, D. C., March 17, 1891.*

The minister of the United States in London informs the Department that inquiries are frequently made at the legation by officers of the London police who have received telegrams from police authorities or detective agencies in the United States asking for the arrest and detention of alleged fugitives from justice.

In Great Britain a provisional warrant of arrest of a fugitive from justice may be obtained from a judicial magistrate, but it is required that the application for the warrant shall have the sanction of the foreign government. When, therefore, the London police receive such a telegram as has been described, they at once apply to the minister of the United States to ascertain whether he will authorize proceedings before a magistrate to be taken.

Ministers of the United States are not authorized to request or to sanction requests for the arrest of fugitives from justice without the instructions of this Department. When, therefore, the minister of the United States in London is asked to sanction a complaint before a magistrate, based upon a request made by police authorities or detective agencies in this country, he is obliged to refuse.

The proper course in such a case is for the authorities of the particular district in which the offense was committed to apply to the governor of the State in which such district is situated, through whom the application for the intervention of the United States or of its representatives must come. The only exception to this rule is the city and county of New York, the prosecuting attorney of which is permitted to apply for provisional detention directly to this Department, although the formal application for a requisition for surrender must come through the governor of the State.

In applying to this Department to secure the provisional detention of a fugitive in Great Britain, the charge of crime must be briefly and clearly stated, and, unless there is some witness in Great Britain to identify the fugitive, a description of him should be furnished either to this Department or to the London police. A positive assurance must also be given to this Department that a warrant has been issued for his arrest at the place where the crime was committed. This is a necessary allegation under the British statute.







U.S. State 8/11.07

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**MEMORANDUM RELATIVE TO APPLICATIONS FOR THE EXTRADITION FROM FOREIGN COUNTRIES OF FUGITIVES FROM JUSTICE.**

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DEPARTMENT OF STATE,  
Washington, September, 1921.

Extradition will be asked only from a Government with which the United States has an extradition treaty, and only for an offense specified in the treaty.

All applications for requisitions should be addressed to the Secretary of State, accompanied by the necessary papers as herein stated. When extradition is sought for an offense within the jurisdiction of the State or Territorial courts, the application must come from the governor of the State or Territory. When the offense is against the United States, the application should come from the Attorney General.

In every application for a requisition it must be made to appear that one of the offenses enumerated in the extradition treaty between the United States and the Government from which extradition is sought has been committed within the jurisdiction of the United States, or of some one of the States or Territories, and that the person charged therewith is believed to have sought an asylum or has been found within the dominions of such foreign government.

The extradition treaties of the United States ordinarily provide that the surrender of a fugitive shall be granted only upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her commitment for trial if the crime or offense had been there committed.

If the person whose extradition is desired has been convicted of a crime or offense and escaped thereafter, a duly authenticated copy of the record of conviction and sentence of the court is ordinarily sufficient.

If the fugitive has not been convicted, but is merely charged with crime, a duly authenticated copy of the indictment or information, if any, and of the warrant of arrest and return thereto, accompanied by a copy of the evidence upon which the indictment was found, or the warrant of arrest issued, or by original depositions setting forth as fully as possible the circumstances of the crime, are usually necessary. Many of our treaties require the production of a duly authenticated copy of the warrant of arrest in this country; but an indictment, information, or warrant of arrest alone, without the accompanying proofs, is not ordinarily sufficient. It is desirable to make out as strong a case as possible, in order to meet the contingencies of the local requirements at the place of arrest.

If the extradition of the fugitive is sought for several offenses, copies of the several convictions, indictments, or informations and of the documents in support of each should be furnished.

Application for the extradition of a fugitive should state his full name, if known, and his alias, if any, the offense or offenses in the language of the treaty upon which his extradition is desired, and the full name of the person proposed for designation by the President to receive and convey the prisoner to the United States. It should also contain a statement to the effect that it is made solely for the purpose of bringing about the trial and punishment of the fugitive, and not for any private purpose, and that if the application is granted, the criminal proceedings will not be used for any private purpose.

Copies of the record of conviction, or of the indictment, or information, and of the warrant of arrest, and the other papers and documents going to make up the evidence are required by the department, in the first instance, as a basis for requesting the surrender of the fugitive, but chiefly in order that they may be duly authenticated under the seal of the department, so as to make them receivable as evidence where the fugitive is arrested upon the question of his surrender.

Copies of all papers going to make up the evidence, transmitted as herein required, including the record of conviction, or the indictment, or information, and the warrant of arrest, must be duly certified and then authenticated under the great seal of the State making the application or the seal of the Department of Justice, as the case may be; and this department will authenticate the seal of the State or of the Department of Justice. For example, if a deposition is made before a justice of the peace, the official character of the justice and his authority to administer oaths should be attested by the county clerk or other superior certifying officer; the certificate of the county clerk should be authenticated by the governor or secretary of state under the seal of the State, and the latter will be authenticated by this department. If there is but one authentication, it should plainly cover all the papers attached.

*All of the papers herein required in the way of evidence must be transmitted in duplicate, one copy to be retained in the files of the department, and the other, duly authenticated by the Secretary of State, will be returned with the President's warrant, for the use of the agent who may be designated to receive the fugitive. As the governor of the State, or the Department of Justice, also ordinarily requires a copy, prosecuting attorneys should have all papers made in triplicate.*

By the practice of some of the countries with which the United States has treaties, in order to entitle copies of depositions to be received in evidence the party producing them is required to declare under oath that they are true copies of the original depositions. It is desirable, therefore, that such agent, either from a comparison of the copies with the originals or from having been present at the attestations of the copies, should be prepared to make such declaration. When the original depositions are forwarded, such declaration is not required.

Applications by telegraph or letter are frequently made to this department for its intervention to obtain the provisional arrest and

detention of fugitives in foreign countries in advance of the presentation of the formal proofs upon which a demand for their extradition may be based. Such applications should state specifically the name of the fugitive, the offense with which he is charged, the circumstances of the crime as fully as possible, and a description and identification of the accused. It is always helpful to show that an indictment has been found or a warrant of arrest has been issued for the apprehension of the accused. In Great Britain the practice makes it essential that it shall appear that a warrant of arrest has been issued in this country.<sup>1</sup>

Care should be taken to observe the provisions of the particular treaty under which extradition is sought, and to comply with any special provisions contained therein. The extradition treaties of the United States may be found in the several volumes of the Statutes at Large, and in the compilation entitled "Treaties, Conventions, International Acts, Protocols, and Agreements between the United States and Other Powers," issued in three volumes by the Government Printing Office. Copies of particular treaties will be furnished by the department upon application.

If the offense charged be a violation of a law of a State or Territory, the agent authorized by the President to receive the fugitive will be required to deliver him to the authorities of such State or Territory. If the offense charged be a violation of a law of the United States, the agent will be required to deliver the fugitive to the proper authorities of the United States for the judicial district having jurisdiction of the offense.

Where the requisition is made for an offense against the laws of a State or Territory, the expenses attending the apprehension and delivery of the fugitive must be borne by such State or Territory. Expenses of extradition are defrayed by the United States only when the offense is against its own laws.

A strict compliance with these requirements may save much delay and expense to the party seeking the extradition of a fugitive criminal.

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<sup>1</sup> For fuller information with respect to procedure in cases of provisional arrest within British jurisdiction, see Department's memorandum of May, 1890.







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